

Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Oregon Dept. of Energy

December 16, 2022



Opening Items:

- Call to Order
- Roll Call
- Announcements

Announcements

- Please silence your cell phones
- Those participating via phone or webinar, please mute your phone and if you receive a phone call, please hang up from this call and dial back in after finishing your other call
- For those signed onto the webinar, please do not broadcast your webcam
- Reminder to Council and to anyone addressing the Council to please remember to state your full name clearly, and do not use the speakerphone feature, as it will create feedback.
- For those wishing to provide comment during Agenda Item D, Public Comment Period and Agenda Item H, Annual Rulemaking Prioritization:
 - There are comment cards at the table near the entrance for those in person
 - Please use the “Raise Your Hand” feature in Webex for those on the webinar
 - Press *3 to raise your hand for those on the phone

Announcements Cont'd.

- You may sign up for email notices by clicking the link on the agenda or the Council webpage.
- You are also welcome to access the online mapping tool and any documents by visiting our website.
- Energy Facility Council meetings shall be conducted in a respectful and courteous manner where everyone is allowed to state their positions at the appropriate times consistent with Council rules and procedures. Willful accusatory, offensive, insulting, threatening, insolent, or slanderous comments which disrupt the Council meeting are not acceptable. Pursuant to Oregon Administrative Rule 345-011-0080, any person who engages in unacceptable conduct which disrupts the meeting may be expelled.

Agenda Item A (Action Item & Information Item)

Consent Calendar

December 16, 2022

- October Council Meeting Minutes
- Council Secretary Report

Agenda Item B (Action Item)

Stateline Wind Project - Council Review of Request for Amendment 8 to Transfer Ownership of Facility

December 16, 2022

Sarah Esterson, Senior Policy Advisor, ODOE

Presentation Overview

- Facility Overview and Site Certificate History
- Procedural History
- Council Review (Action Item)

Facility Overview

Certificate Holder: FPL Energy Vansycle, LLC (Stateline 1&2) and FPL Energy Stateline II, Inc. (Vansycle II)

Parent Company: NextEra Energy Resources LLC

Type of Facility: 222 MW (operational) wind facility made up of two units:
Stateline 1 & 2: 123 MW
Vansycle II: 101.4 MW

Facility Site/Site Boundary Location

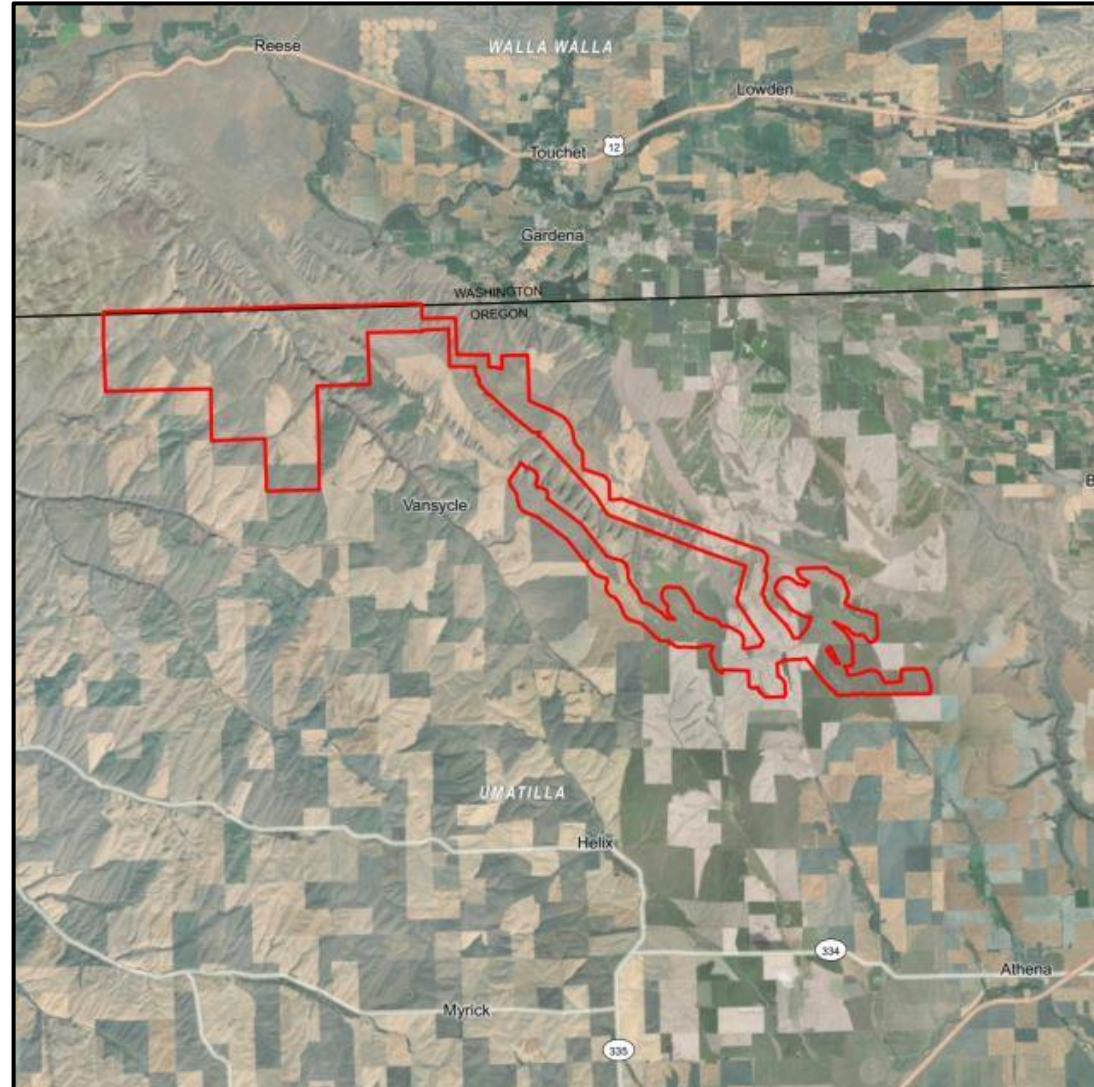
Site Boundary

- Private land, within Umatilla County, near Helix

Site Certificate History

Site Certificate effective Sept. 14, 2001
Site Certificate Amended Seven Times:

- May 2002
- June 2003
- June 2005
- March 2009
- May 2019
- January 2022
- June 2022



Stataline Wind Project
Request for Amendment 8

Stataline 1 & 2
and Vansycle II



Project Location

UMATILLA COUNTY, OR AND
WALLA WALLA COUNTY, WA

- Project Boundary
- Other Features
- Highway
- Other Road
- State Boundary
- County Boundary



Request for Transfer of Site Certificate Ownership

Stateline Wind Project - Vansycle II Certificate Holder

- FPL Energy Stateline II, Inc.
- NextEra Energy Resources, LLC
(parent company)

New Owner (Certificate Holder)

- Vansycle II Wind, LLC
- NextEra Energy Resources, LLC
(parent company)

The Department evaluated the two applicable Council standards (Organizational Expertise & Retirement and Financial Assurance) for the Request to Transfer. Presentation of the Department's evaluation following the close of the Transfer Hearing.

Transfer Hearing

How to Raise Your Hand in Webex:

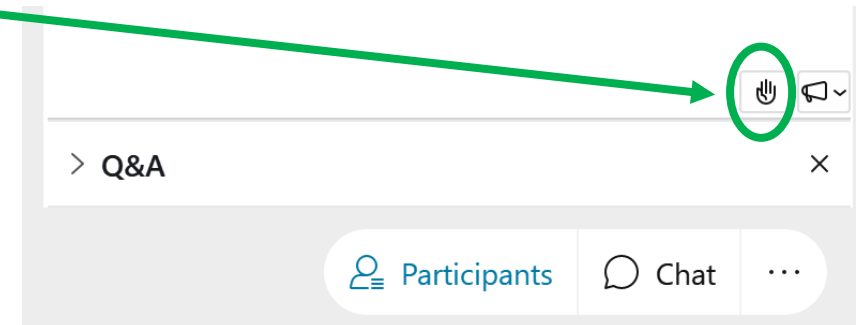
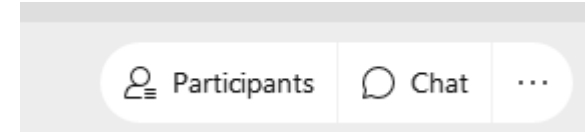
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

Press *3 again on your telephone keypad to lower your hand.

Request to Transfer Ownership of Facility

Overview

Proposed New Owner: Vansycle II Wind, LLC.

Transfer Procedural History

Requirement	Responsible Party	Date
Notification of Intent to Transfer Site Certificate	Certificate Holder	Nov. 22, 2022
Submittal of Written Request	Cert Holder/New Owner	Nov. 28, 2022
Notice of Transfer Request	ODOE	Dec. 6, 2022
Transfer Hearing	Council	Dec. 16, 2022
Review of Transfer Request	Council	Dec. 16, 2022
Review/Decision on Transfer Request (potential)	Council	Dec. 16, 2022

Review of Comments

PLACEHOLDER SLIDE

- No comments received to date

Transfer Review Process

OAR 345-027-0400

Council must find that the new owner complies with:

Organizational Expertise standard

- (OAR 345-022-0010)

Retirement and Financial Assurance standard

- (OAR 345-022-0050)

Standards for Facilities that Emit Carbon Dioxide – Monetary Path Payment Requirement (If applicable)

- (OAR 345-024-0710(1))

Organizational Expertise

Experience in construction/operation of wind/other energy facilities

- Council has previously found that the Parent Company has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate

Past Performance

- Regulatory compliance: 3 violations related to Council's Fish and Wildlife Habitat standard (April 5, 2022)

Retirement and Financial Assurance

- Ability to Restore Site to Useful, Nonhazardous Condition
 - No changes in previously identified tasks/actions
- Ability to Obtain Bond/Letter of Credit (\$6,906,000 (Q4 2021 Dollars))
 - Surety bond issued by the Zurich American Insurance Company and Fidelity and Deposit Company of Maryland
- Legal Authority to Operate Facility
 - New owner is a registered LLC with Oregon Secretary of State (4-28-22)
 - Squire, Patton Boggs legal opinion letter, dated Nov. 14, 2022, affirms new owner's legal authority to own/operate the facility

Council Options

Option 1 – Staff Recommendation

Approve the request for transfer, as recommended by Staff.

Option 2

Approve the request for transfer, with changes.

Option 3

Deny the request for transfer, with specific reasons.

Council Deliberation

Agenda Item C (Information Item)

Siting Table Overview

December 16, 2022

Oriana Magnera, Energy, Climate and Transportation Manager, VERDE

BREAK

Agenda Item D (Information Item)

PUBLIC COMMENT

This time is reserved for the public to address the Council regarding any item within Council jurisdiction that is not otherwise closed for comment, which includes:

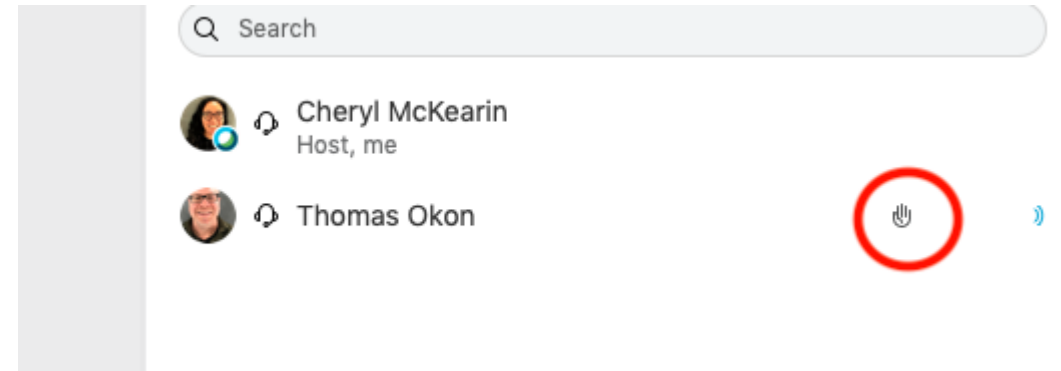
- The West End Solar Project Draft Proposed Order
- The Nolin Hills Proposed Order
- The Boardman to Hemingway Transmission Line Project
- The Protected Areas, Scenic Resources, and Recreation Resources Standards Rulemaking

Agenda Item D

PUBLIC COMMENT

Phone Commenters: Press *3 to raise your hand to make comment, and *3 to lower your hand after you've made your comment.

Webinar Commenters: Open the Participant list, hover over your name and click on the "Raise Your Hand icon".



How to Raise Your Hand in Webex:

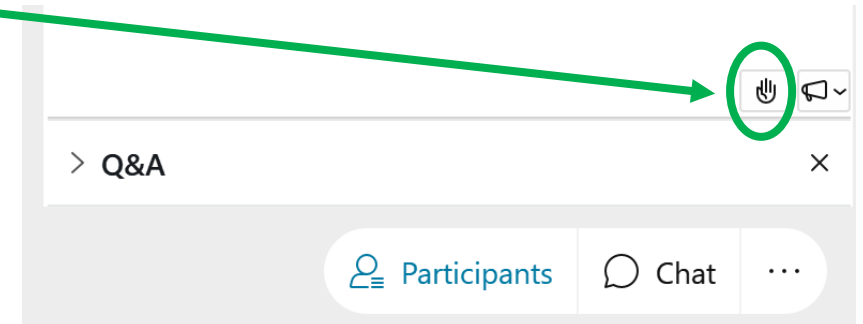
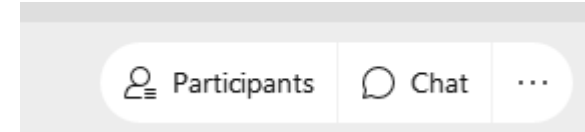
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

Press *3 again on your telephone keypad to lower your hand.

Agenda Item E (Information Item)

**West End Solar Project, EFSC Review of Draft
Proposed Order on Application for Site Certificate**

December 16, 2022

Kellen Tardaewether, Senior Siting Analyst, ODOE

Presentation Overview

- Overview of applicant, proposed facility and location
- Procedural history
- Review of Council standards, select facts and condition of approval, and overview of issues raised in comments received.

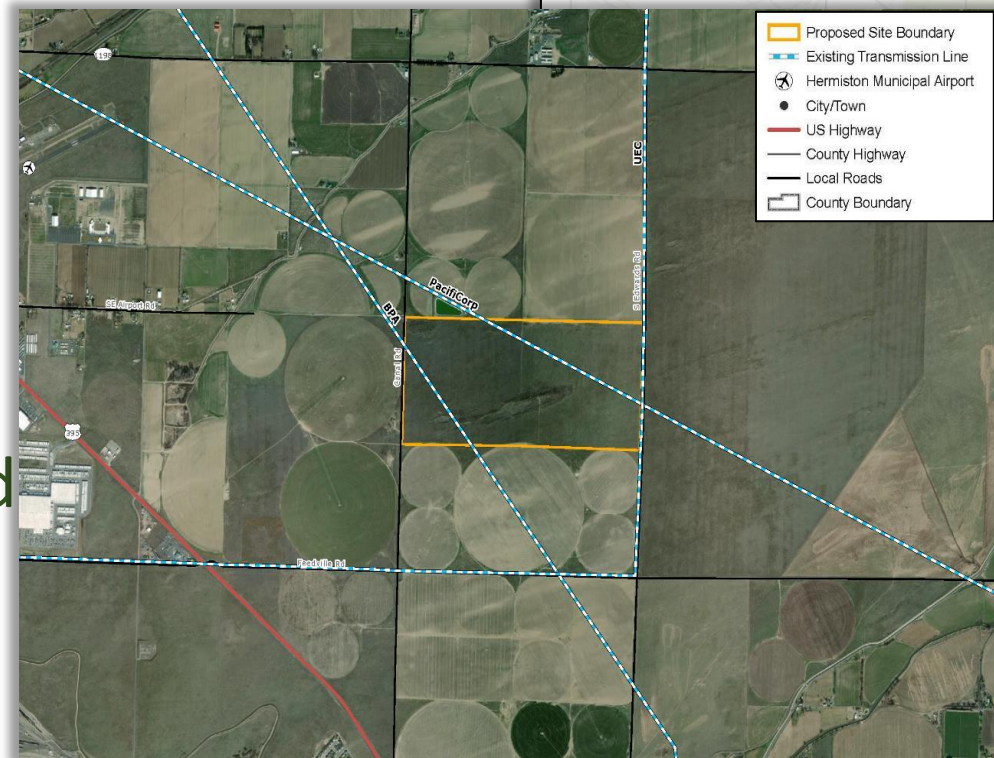
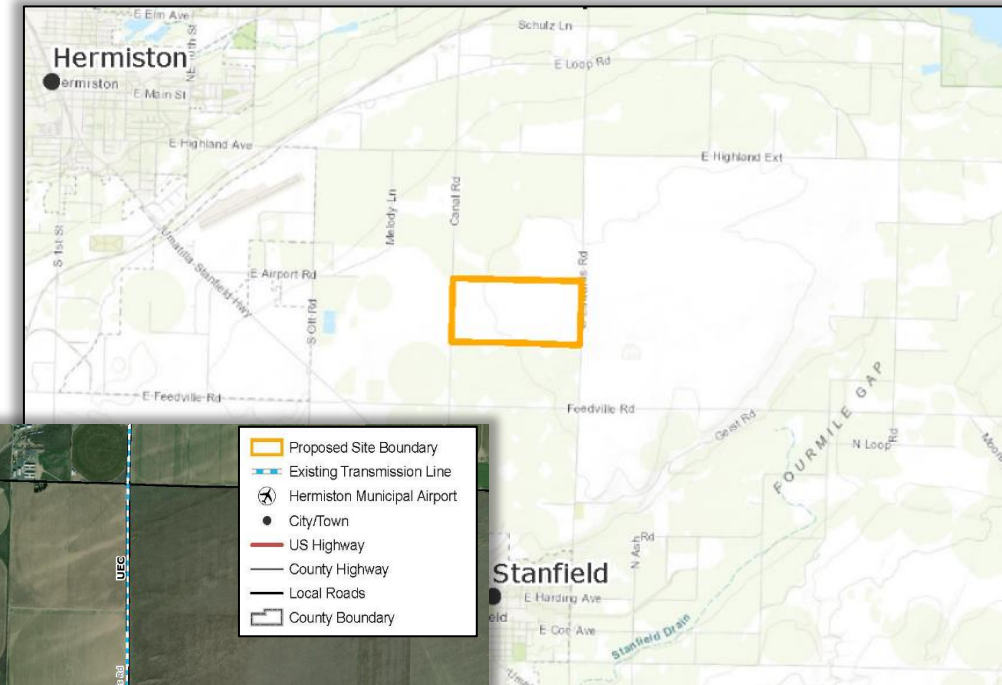
Council Scope of Review

OAR 345-015-0230

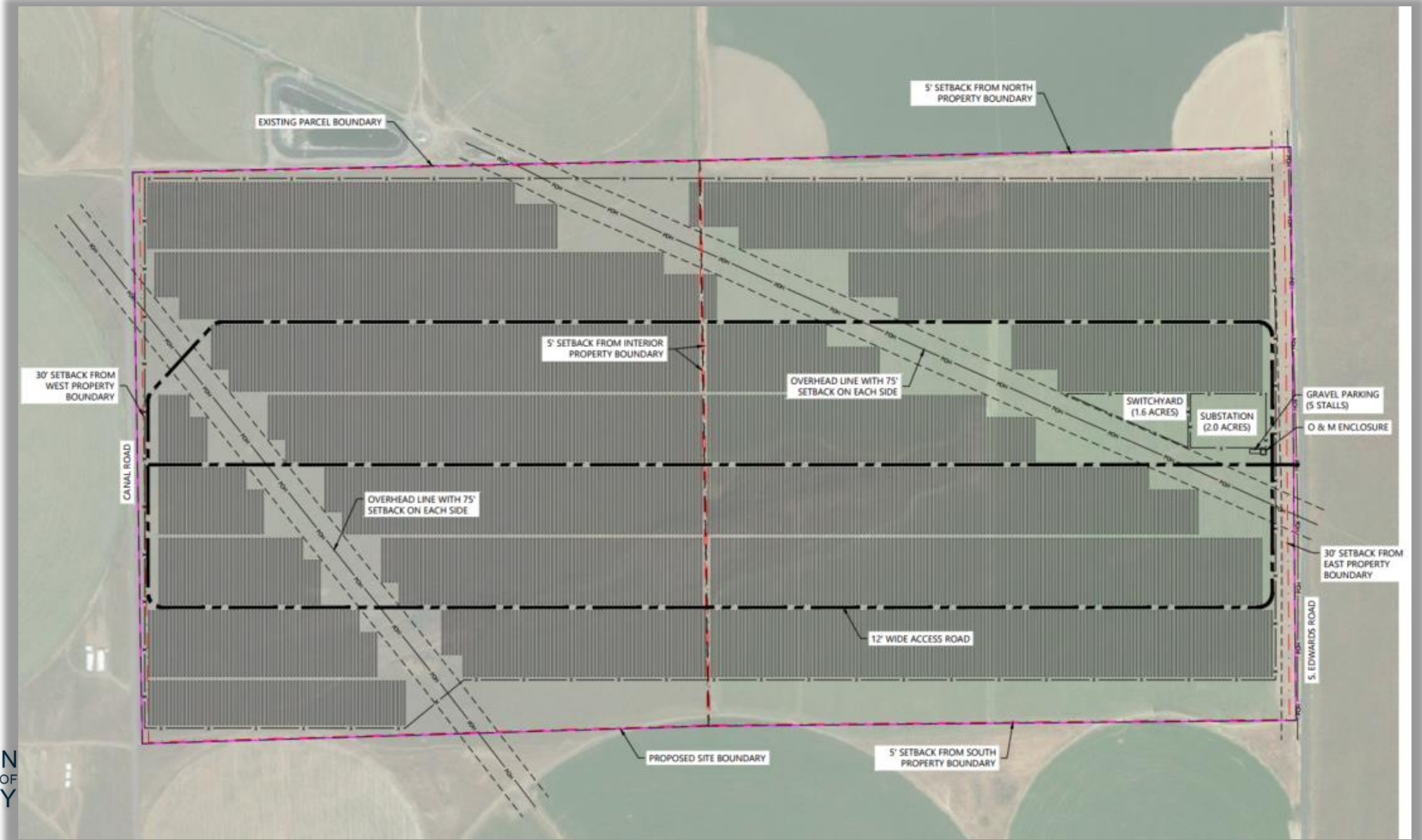
- Review DPO, DPO Comments by issue/standard, applicant's response to issues raised; Department recommendations
- Provide comments for Department consideration in Proposed Order
 - Provide comments individually, consensus, or vote at EFSC meeting
 - Provide comments by issue or standard as staff presents
- The next step in the process will be for the Department to issue a Proposed Order in accordance with ORS 469.370(4).

West End Solar Project: Project Overview

- Applicant: EE West End Solar, LLC (Applicant) subsidiary of Eurus Solar Holdings, LLC.
- Proposed Facility: A 50-megawatt (MW) solar energy facility. 324-acre site boundary.
- Related or supporting facilities include dispersed or centralized battery energy storage systems collector substation, switchyard substation, O&M enclosure, and service roads, etc.



West End Solar Project: Project Overview



Procedural History

Milestone	Responsible Party	Date
Request for Expedited Review for Small Capacity Facilities and Department Approval	Applicant/ODOE	December 4, and 17 2020
Preliminary Application for Site Certificate (pASC)	Applicant	November 5, 2021
Project Order	ODOE	February 10, 2022
Application for Site Certificate (ASC)	Applicant	September 28, 2022
Draft Proposed Order (DPO)	ODOE	October 26, 2022
DPO Hearing	ODOE/EFSC/Public/Applicant	November 17, 2022
Deadline for Applicant Supplemental Responses	Applicant	December 2, 2022
EFSC Review of DPO	EFSC	December 16, 2022

Council Review of DPO/Comments

Section IV.A. General Standard of Review: OAR 345-022-0000 [DPO Page 19]

General Standard of Review requires the Council to find that a preponderance of evidence on the record supports the conclusion that a proposed facility would comply with the requirements of EFSC statutes and the siting standards adopted by the Council and that a proposed facility would comply with all other Oregon statutes and administrative rules applicable to the issuance of a site certificate for the proposed facility.

Council Review of DPO/Comments

Section IV.A. General Standard of Review: OAR 345-022-0000

- Applicant represents a 9-month maximum construction schedule, however, under recommended **General Standard Condition 1**, the Department recommends Council establish a construction commencement deadline that provides sufficient time for planning and unexpected delays of three years after the issuance of the site certificate, and a 24-month completion deadline once construction commences.
- **General Standard Condition 3** [Mandatory Condition OAR 345-025-0006(3)], requires the applicant to design, construct, operate and retire the facility substantially as described in the site certificate...

Council Review of DPO/Comments

Section IV.B. Organizational Expertise: OAR 345-022-0010 [DPO Page 25]

Subsections (1) and (2) of the Council's Organizational Expertise standard require that the applicant demonstrate its ability to design, construct and operate the proposed facility in compliance with Council standards and all site certificate conditions, and in a manner that protects public health and safety, as well as its ability to restore the site to a useful, nonhazardous condition. Subsections (3) and (4) address third party permits.

Council Review of DPO/Comments

Section IV.B. Organizational Expertise: OAR 345-022-0010

- The applicant is a wholly owned subsidiary of Eurus Solar Holdings, LLC.
- The applicant and Eurus Solar Holdings LLC have executed a limited liability company agreement, effective September 1, 2021. This agreement establishes, in part, the ownership and management of assets and interests by the applicant and its sole Member, Eurus Solar Holdings LLC.
- Parent company has developed over 700 megawatts (MW) of renewable energy generation in the United States.

Table D-1. Summary of Projects Developed and/or Operated by the Applicant's Parent Company in the United States

Facility Name	Type	Location	Capacity	Operational Year
Waianae	Solar	Waianae, HI	27.6 MW	2017
Avenal	Solar	Avenal, CA	45 MW	2011
Spearville 3	Wind	Dodge City, KS	100.8 MW	2012
Combine Hills II	Wind	Milton-Freewater, OR	63 MW	2009
Bull Creek	Wind	Borden County, TX	180 MW	2009
Combine Hills I	Wind	Milton-Freewater, OR	41 MW	2003
California Desert	Wind	Tehachapi and Mojave, CA	250 MW	1987-2004

Council Review of DPO/Comments

Section IV.B. Organizational Expertise: OAR 345-022-0010

Recommended Organizational Expertise Condition 4, requires the applicant to report to the Department incidents or circumstances that may violate the terms or conditions of the site certificate, terms or conditions of any order of the Council, or the terms or conditions of any order issued under OAR 345-027-0230, and includes reporting requirements.

Applicant Responses:

- Applicant covered by comprehensive business, property and liability insurance.
- Applicant will own the facility, which will have an estimated value of \$80 million dollars, and will generate revenue from a PPA.
- EFSC has authority to address violations of EFSC rules or orders, or any terms or conditions of a site certificate.
- Existing site certificate conditions adequately address issues of potential noncompliance.

Council Review of DPO/Comments

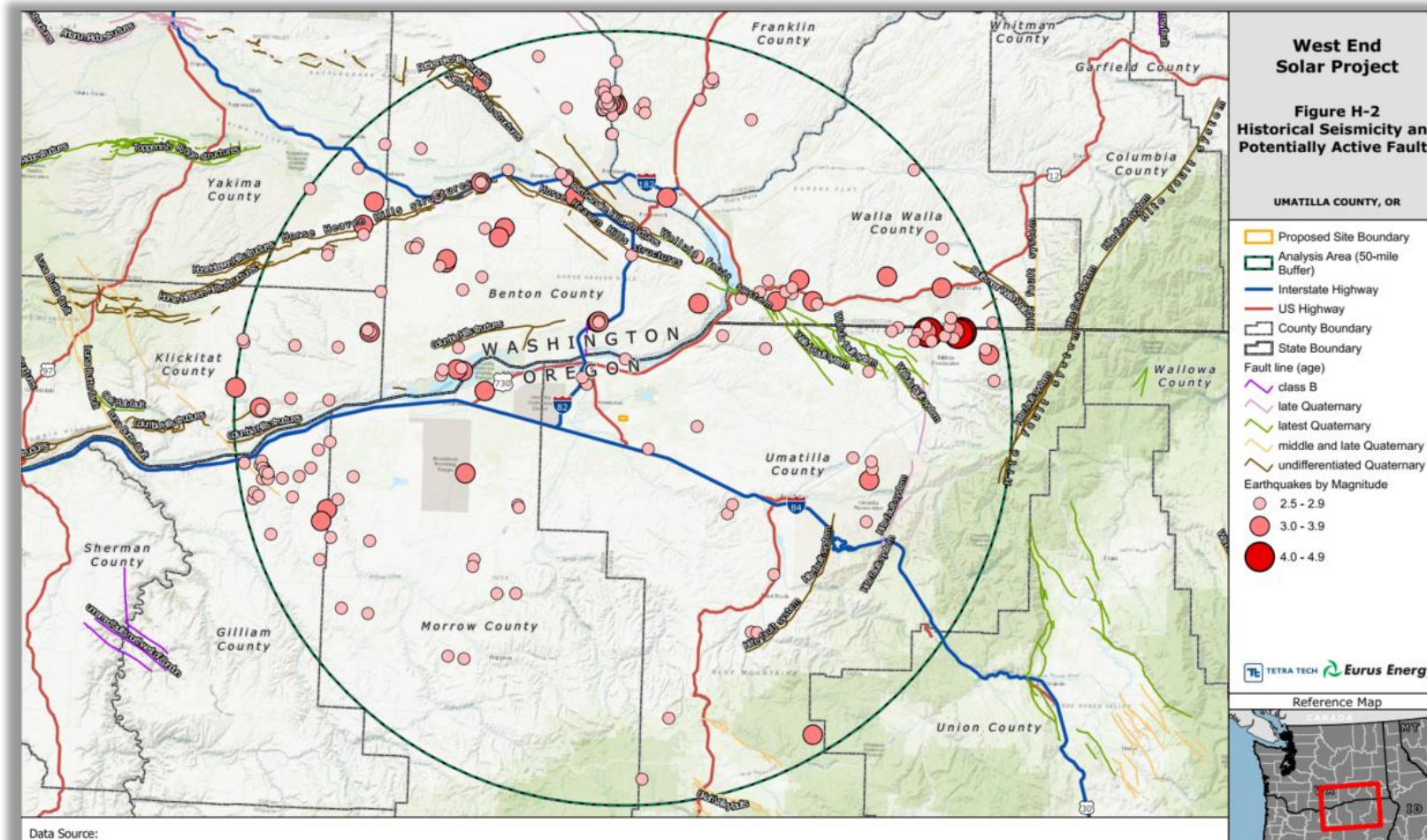
Section IV. C. Structural Standard: OAR 345-022-0020 [DPO Page 32]

Structural Standard generally requires the Council to evaluate whether the applicant has adequately characterized the potential seismic, geological and soil hazards of the site, and whether the applicant can design, engineer and construct the facility to avoid dangers to human safety and the environment from these hazards.

Council Review of DPO/Comments

Section IV. C Structural Standard: OAR 345-022-0020

- There is low seismic risk at the facility site.



Council Review of DPO/Comments

Section IV. C Structural Standard: OAR 345-022-0020

- There is risk at the facility site for erosion, flooding and shrinking/swelling soils, although these risks are low.
- Non-seismic risks would be addressed through facility design under **Recommended Structural Standard Condition 1**, requiring completion of a preconstruction geotechnical investigation and design selection based on the outcome of boring and soil testing.

Council Review of DPO/Comments

Section IV.D. Soil Protection: OAR 345-022-0022 [DPO Page 32]

Soil Protection standard requires the Council to find that, taking into account mitigation, the design, construction, and operation of a proposed facility are not likely to result in a significant adverse impact to soils.

Council Review of DPO/Comments

Section IV. D Soil Protection: OAR 345-022-0022

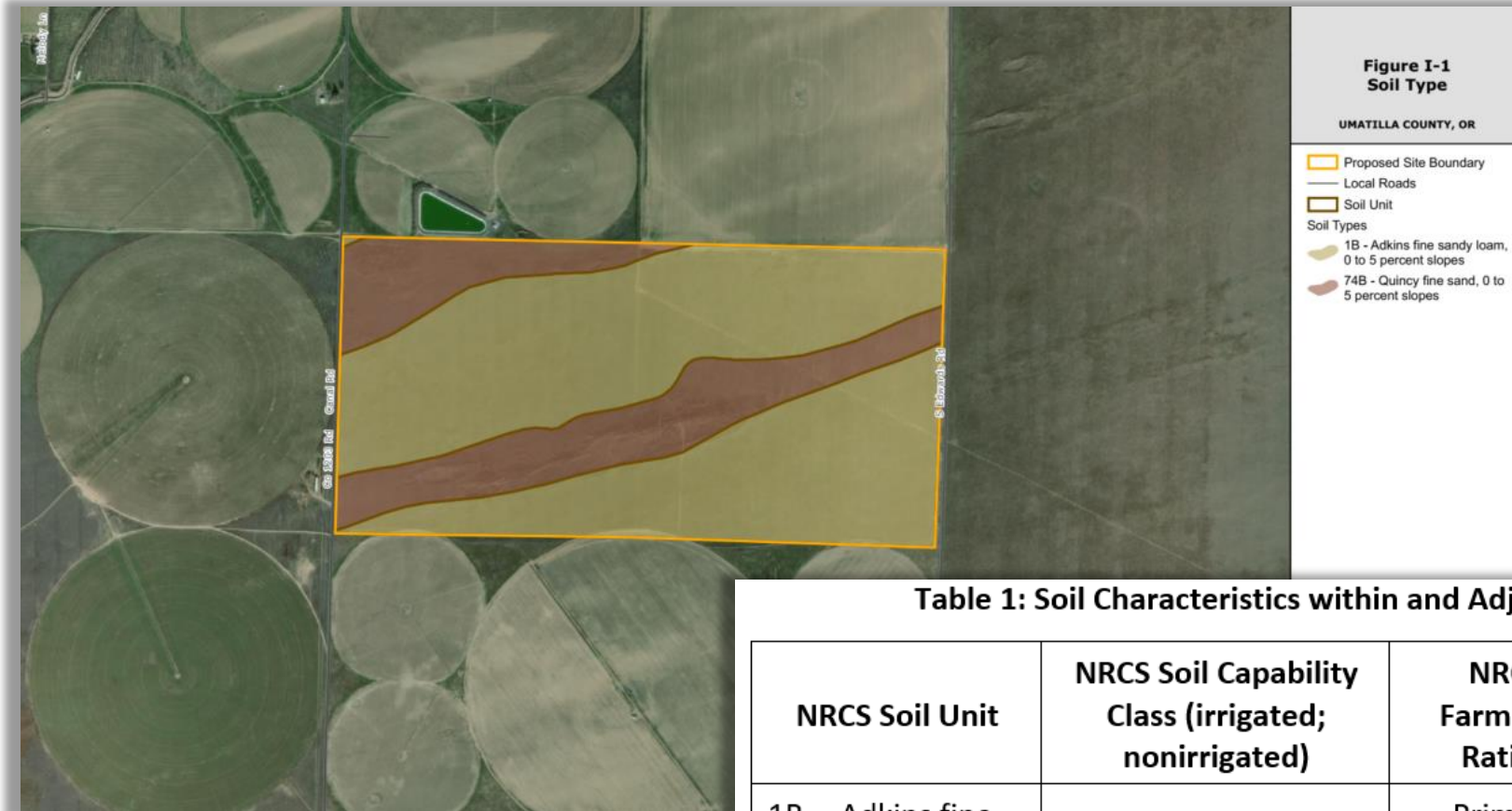


Table 1: Soil Characteristics within and Adjacent to the Proposed Site Boundary

NRCS Soil Unit	NRCS Soil Capability Class (irrigated; nonirrigated)	NRCS Farmland Rating	Water Erosion (K-factor)	Wind Erosion	Permeability
1B -- Adkins fine sandy loam	Class 2; Class 4	Prime if irrigated	0.32 (Moderate)	Moderate	High
74B -- Quincy fine sand	Class 4; Class 7	Not prime	0.1 (Slight)	Severe	Very High

Council Review of DPO/Comments

Section IV. D Soil Protection: OAR 345-022-0022

Recommended Soil Protection Conditions 1 through 3 requires the implementation of an Erosion Sediment Control Measures included in Attachment I-1 of the Final Order on the ASC during construction and operation of the facility.

Council Review of DPO/Comments

Section IV.E. Land Use: OAR 345-022-0030 [DPO Page 43]

Land Use standard requires the Council to find that a proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission (LCDC). Under ORS 469.504(1)(b)(A), the Council may find compliance with statewide planning goals if the Council finds that a proposed facility “complies with applicable substantive criteria from the affected local government’s acknowledged comprehensive plan and land use regulations that are required by the statewide planning goals and in effect on the date the application is submitted...”

Land Use Zones and UCDC

Table 2: Umatilla County Development Code (UCDC)

Code Section	Title
Exclusive Farm Use (EFU) Zone Requirements	
§152.025	Zoning Permit
§152.060	Conditional uses permitted
§152.061	Standards for all conditional uses
§152.063	Development standards
§152.010	Access to Buildings, Private Driveways and Easements
§152.011	Vision Clearance
§152.015	Fences
§152.562	Off-Street Parking and Loading Requirements
§152.615	Additional Conditional Use Permit Restrictions

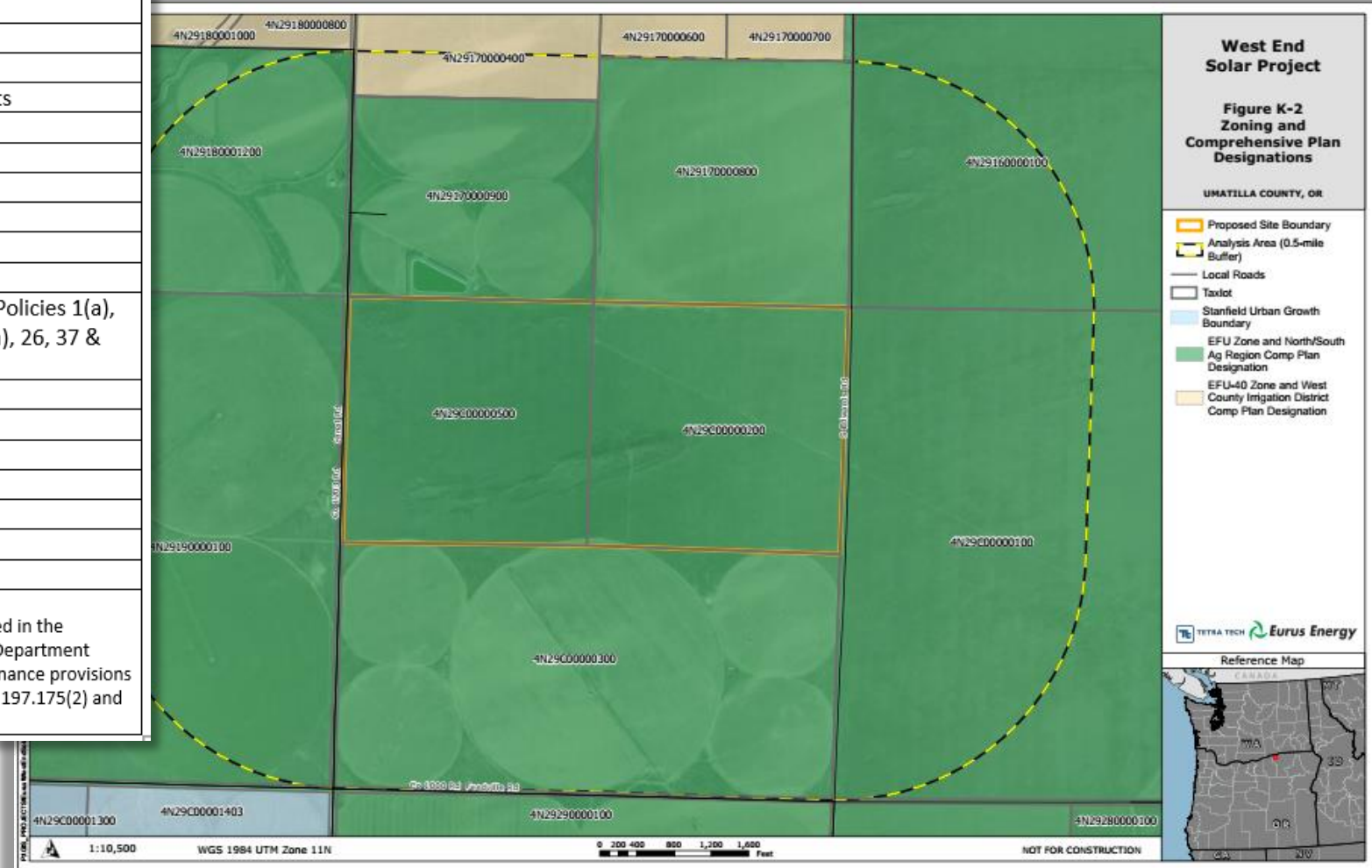
Umatilla County Comprehensive Plan (UCCP)¹

- Chapter 6: Agriculture Policies 1, 8 and 17
- Chapter 8: Open Space, Scenic and Historic Areas, and Natural Areas Policies 1(a), 5(a & b), 6(a), 8(a), 9(a), 10(c, d & e), 20 (a), 20(b)(1-8), 22, 23(a), 24(a), 26, 37 & 38(a-c), 39(a) and 42(a)
- Chapter 9: Air, Land, and Water Quality Policies 1, 7 and 8
- Chapter 10: Natural Hazards Policies 1 and 4
- Chapter 11: Recreational Needs Policy 1
- Chapter 12: Economy of the County Policies 1, 4 and 8(a-f)
- Chapter 14: Public Facilities and Services Policies 1(a-d), 2, 9 and 19
- Chapter 15: Transportation Policies 18 and 20
- Chapter 16: Energy Conservation Policy 1

Notes:

1. Rather than recommend findings on the broad policies and goals articulated in the Comprehensive plan that are not specific to locations, activity or use, the Department recommends Council makes findings on compliance with the land use ordinance provisions that implement the relevant sections of the Comprehensive Plan. See ORS 197.175(2) and 197.015(11).

Applicant DPO Comments and County Responses



Council Review of DPO/Comments

Section IV. E Land Use: OAR 345-022-0030

Goal 3 Exception request or Solar Facility in EFU Zone

The Department recommends Council make the following findings of fact related to the request to take an exception to the Statewide Policy embodied in Goal 3, Agricultural Lands:

- Locational Dependency
- Minimal Direct Impacts to Agriculture within Subject Tracts
- Minimal Indirect Impacts to Agriculture within Surrounding Area
- Minimal Impacts to Resources Protected by Council Standards

Recommended Land Use Condition 6 (PRO): Prior to operation, the certificate holder shall provide to the Department:

- An executed interconnection agreement with Umatilla Electric Cooperative, Bonneville Power Administration or PacifiCorp demonstrating that the facility has an interconnection agreement for the life of the facility, to one of the existing transmission lines, as presented in the Site Certificate,
- An executed interconnection agreement with Umatilla Electric Cooperative, Bonneville Power Administration or PacifiCorp (third party substation....



Council Review of DPO/Comments

Section IV. E Land Use: OAR 345-022-0030

Goal 3 Exception request or Solar Facility in EFU Zone

➤ Applicant Responses to Issues Concerning Minimal Direct Impacts to Agriculture within Subject Tracts

RECORDING COVER SHEET
(Please print or type)

State of Oregon
County of Umatilla
Instrument received and recorded on
02/01/2019 11:38:00 AM
in the record of instrument
code type DE-INC
Instrument number 2019-0820128
\$761.00
Office of County Records
John Churchill
Records Officer P13

After recording return to: ORS 205.234(1)(c)
JOSEPH H. HOBSON, JR.
SCHWABE WILLIAMSON & WYATT
530 CENTER STREET NE, SUITE 730
SALEM, OR 97301

1. Title(s) of the transaction(s) ORS 205.234(1)(a)
LANDOWNERS' NOTICE OF EAST IMPROVEMENT DISTRICT ORS 554.190

2. Direct party(ies) / grantor(s) ORS 205.234(1)(b)
ARTHUR PRIOR
PLEASE SEE ATTACHED PAGE TO THIS RECORDING COVER SHEET

3. Indirect party(ies) / grantee(s) Trust Deed / Mortgage Assignee Address ORS 205.234(1)(b)(g)
EAST IMPROVEMENT DISTRICT, a public corporation formed under ORS Chapter 554

4. True and actual consideration: ORS 205.234(1) Amount in dollars or other
\$ ZERO
Other:

5. Send tax statements to: ORS 205.234(1)(e)
NO CHANGE

6. Satisfaction of lien, order, or warrant: ORS 205.234(1)(f)

7. The amount of the monetary obligation imposed by the lien, order, or warrant: ORS 205.234(1)(f)

**BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON**

In the Matter of the Application for Site Certificate)
for the West End Solar Project)

DECLARATION OF STEVE SCOTT

I, the undersigned, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1. My name is Steve Scott. My wife, Wanda Scott, and I own approximately 200 acres of land in Umatilla County, located in township 4N, range 29E, section 20 on Umatilla County tax parcel 200. Tax parcel 200 is also referred to as Tract 1 in the West End Solar Project's (Project) Final Application for Site Certificate (FASC).
2. I grew up in Stanfield and my wife grew up in Hermiston. I grew up working on farms and had always been interested in agriculture.
3. We had an opportunity to buy Tract 2 in 2011. When we bought the land thinking we could cultivate dryland wheat combine, we attempted to cultivate dryland wheat twice in 2015.
4. The best dryland wheat production on Tract 2 was 11 bushels per acre. In 2015, we averaged 11 bushels per acre. Yield in Oregon's average yield for winter wheat in 2013 was 62 bushels per acre.

**BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON**

In the Matter of the Application for Site Certificate)
for the West End Solar Project)

DECLARATION OF ART PRIOR

I, the undersigned, declare under penalty of perjury under the laws of the State of Oregon that the following is true and correct to the best of my knowledge:

1. My name is Art Prior and I own Windblown Solar LLC. Windblown Solar LLC owns approximately 160 acres of land in Umatilla County, located in township 4N, range 29E, Section 20 on Umatilla County tax parcel 500. Tax parcel 500 is also referred to as Tract 1 in the West End Solar Project's (Project) Final Application for Site Certificate (FASC).
2. I also own Windblown Ranch Inc. Windblown Ranch Inc. owns several parcels located west and east of Tract 1 (see attached Figure K-9). Windblown Ranch Inc. acquired Tract 1 in 1990 and transferred it to Windblown Solar LLC in 2018.
3. I have farmed in Umatilla County since the early 1980s. I have experience in irrigated and dryland farming. I have grown the following crops: wheat, potatoes, peas, corn, and alfalfa.
4. Since Windblown Ranch Inc. acquired Tract 1, it has not been cultivated for agricultural use. To my knowledge, the Tract 1 parcel has never had water rights or been irrigated.

5. Without irrigation water, it is not feasible to plant high value crops on Tract 1 due to the low rain fall and soil types, and there is low potential for dryland crop yield. Tract 1 is mostly composed of 1B Adkins fine sandy loam (102 acres, 63% of parcel), which when unirrigated, is



Council Review of DPO/Comments



Council Review of DPO/Comments

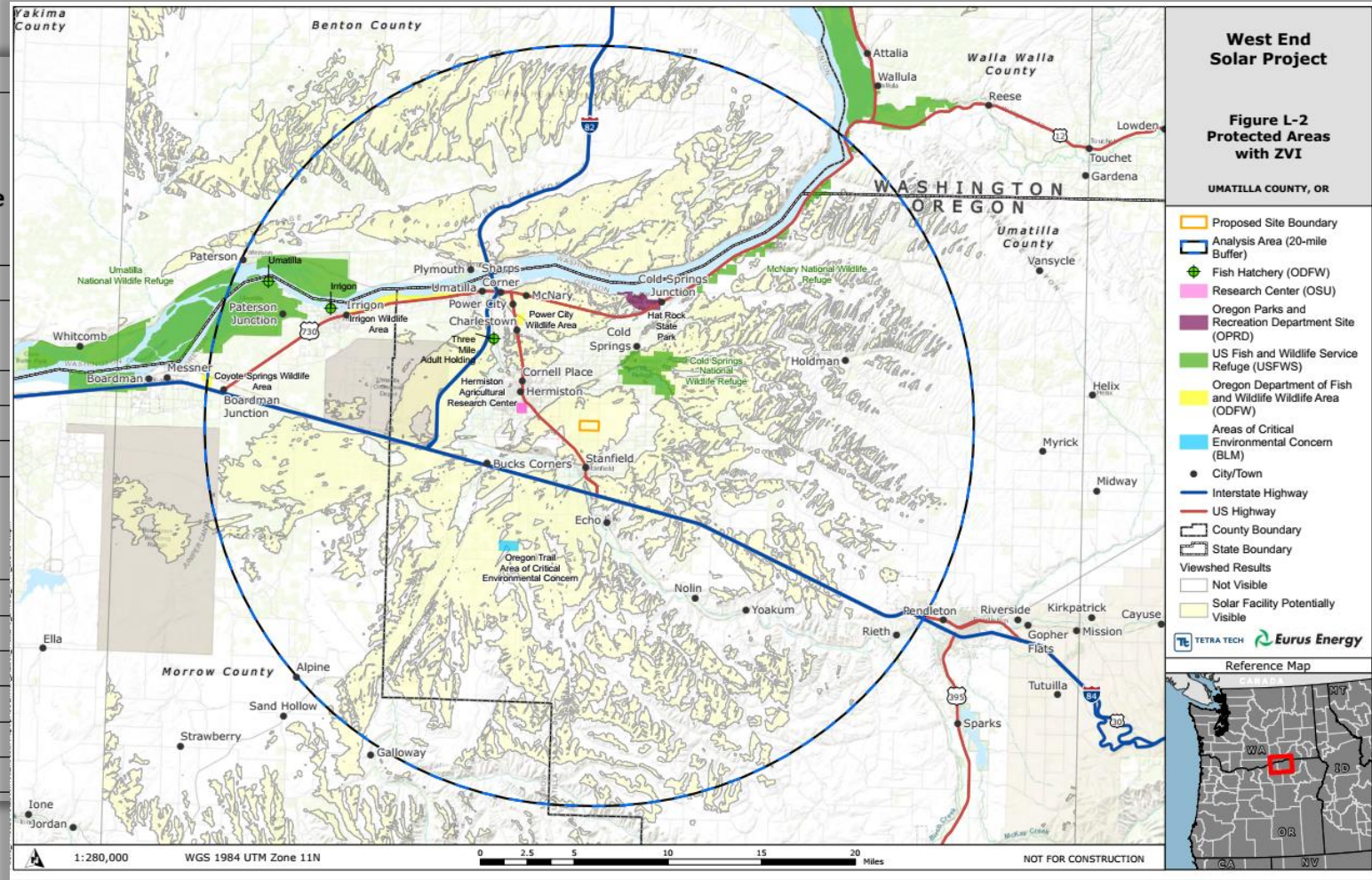
Section IV. F Protected Areas: OAR 345-022-0040 [DPO Page 83]

Protected Areas standard requires the Council to find that, taking into account mitigation, the design, construction and operation of a proposed facility are not likely to result in significant adverse impacts to any protected area as defined by OAR 345-022 0040.

Protected Areas in Analysis Area

Table 3: Protected Areas within 20-mile Analysis Area

Protected Area	Approx. Distance from Proposed Site Boundary (miles)	Direction from Proposed Site Boundary
Cold Spring National Wildlife Refuge	2.4	NE
Hermiston Agricultural Research and Extension Center	3.2	W
Power City Wildlife Area	6.0	NW
Three Mile Adult Holding Facility	6.3	NW
Hat Rock State Park	6.3	N
Echo Meadows Site, Oregon Trail Area of Critical Environmental Concern	6.8	SW
McNary National Wildlife Refuge	7.9	NE
Irrigon Wildlife Area	9.1	NW
Umatilla National Wildlife Refuge	13.8	NW
Irrigon Fish Hatchery	14.6	NW
Umatilla Fish Hatchery	18.2	NW
Coyote Springs Wildlife Area	19.7	W



Council Review of DPO/Comments

Section IV. G Retirement and Financial Assurance: OAR 345-022-0050

[DPO Page 94]

Retirement and Financial Assurance standard requires a finding that the proposed facility site can be restored to a useful, non-hazardous condition at the end of the facility's useful life, should either the applicant (certificate holder) stop construction or should the facility cease to operate. In addition, it requires a demonstration that the applicant can obtain a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.

Council Review of DPO/Comments

Section IV. G Retirement and Financial Assurance: OAR 345-022-0050

- \$5.7 million (Q3 2022 dollars) is a reasonable estimate of an amount satisfactory to restore the site to a useful, nonhazardous condition.
- Letter from Sumitomo Mitsui Banking Corporation (SMBC) verifies its ability to provide a letter of credit of \$5.8 million, confirms a financial relationship with the parent company and the applicant, and provides reasonable assurance that the applicant has the ability to obtain a bond or letter of credit in the specified amount of \$5.7 million.
- **Recommended Retirement and Financial Assurance Condition 4** imposes mandatory condition under OAR 345-025-0006(8) and is imposed, based on the decommissioning amount recommended by the Department to be considered satisfactory by Council. Sub (c) of the condition references Attachment X-1 of the order which are the last Council approved template for a bond and letter of credit.

Council Review of DPO/Comments

Section IV. H Fish and Wildlife Habitat: OAR 345-022-0060 [DPO Page 106]

Fish and Wildlife Habitat standard requires the Council to find that the design, construction and operation of a facility is consistent with the Oregon Department of Fish and Wildlife's (ODFW) habitat mitigation goals and standards, as set forth in OAR 635-415 0025. This rule creates requirements to mitigate impacts to fish and wildlife habitat, based on the quantity and quality of the habitat as well as the nature, extent, and duration of the potential impacts to the habitat.

Council Review of DPO/Comments

Section IV. H Fish and Wildlife Habitat: OAR 345-022-0060

Table 5: Summary of Habitat Impacts, by Category/Acres

Habitat Category	Habitat Subtype	Permanent Impact (Acres)
3	Shrub-steppe	20
4	Eastside Grasslands	139
5		161
6	Other Row Crops	4
Total Permanent Impacts for Categories 1-5 =		320



Council Review of DPO/Comments

Section IV. H Fish and Wildlife Habitat: OAR 345-022-0060

Recommended Fish and Wildlife Condition 1 requires:

- The size of the habitat mitigation area (HMA) for permanent habitat impacts, based on final facility design;
- Provide evidence to the Department demonstrating that an agreement of outright purchase, conservation easement or similar conveyance has been executed for the enhancement and protection of the HMA under the requirements of the Habitat Mitigation Plan, to extend for the life of the facility;
- Submit a final Habitat Mitigation Plan to the Department for review and approval, substantially similar to the draft plan provided in Attachment P-5 of the Final Order on the ASC.



ODFW Letter indicates that, based on the lack of habitat function and connectivity at the site (due to development and location among active agriculture), the habitat quality at the site is lower than Category 3 and 4, because of its disconnection and low functionality.

Council Review of DPO/Comments

Section IV.I. Threatened and Endangered Species: OAR 345-022-0070

[DPO Page 119]

Threatened and Endangered Species standard requires the Council to find that the design, construction, and operation of the proposed facility are not likely to cause a significant reduction in the likelihood of survival or recovery of a fish, wildlife, or plant species listed as threatened or endangered by Oregon Department of Fish and Wildlife (ODFW) or Oregon Department of Agriculture (ODA).

Council Review of DPO/Comments

Section IV.I. Threatened and Endangered Species: OAR 345-022-0070

- Field surveys done for Washington Ground Squirrel Surveys (WAGS) and botanical surveys.
- No occurrences of T&E species were observed during surveys conducted in support of the application.
- **Recommended Threatened and Endangered Species Condition 1**, prior to construction of the facility, that would occur within suitable Washington Ground Squirrel (WGS) habitat, applicant would conduct protocol-level WGS surveys within 1000 feet of any ground disturbing activity
- **Recommended Threatened and Endangered Species Condition 3**, prior to and during construction of the facility, the applicant shall avoid via mapping and flagging, based on a 100 foot buffer (unless otherwise reviewed and approved by the Department and ODA), any incidentally identified occurrence(s) of Lawrence's milkvetch.

Council Review of DPO/Comments

Section IV.J. Scenic Resources: OAR 345-022-0080 [DPO Page 123]

Scenic Resources standard requires the Council to find that visibility of proposed facility structures, plumes, vegetation loss and landscape alterations would not cause a significant adverse impact to identified scenic resources and values. To be considered under the standard, scenic resources and values must be identified as significant or important in local land use plans, tribal land management plans, and/or federal land management plans.

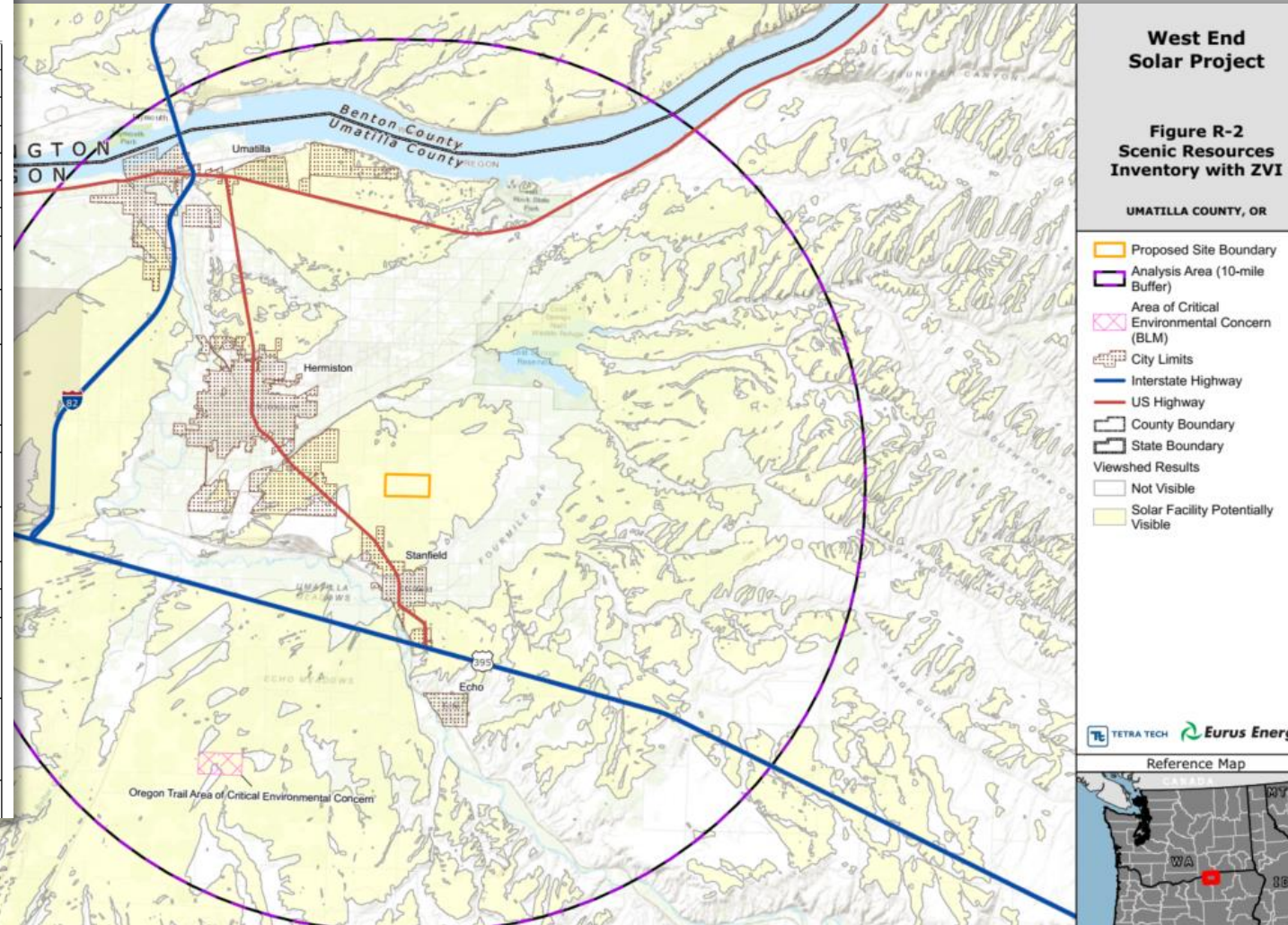
Council Review of DPO/Comments

Section IV.J. Scenic Resources: OAR 345-022-0080

Table 9: Identification of Applicable Local, State, Tribal, and Federal Land Use and Management Plans for Lands within 10-Mile Scenic Resources Analysis Area

Governmental Agency	Plan
Local (County)	
Morrow County	Morrow County Comprehensive Plan (2013)
Umatilla County	Umatilla County Comprehensive Plan (1984, 2018)
Benton County (WA)	Benton County Comprehensive Plan (2020)
Local (City)¹	
City of Umatilla	City of Umatilla Comprehensive Land Use Plan (2019)
City of Hermiston	City of Hermiston Comprehensive Plan and Development Code (2021)
City of Stanfield	City of Stanfield Comprehensive Plan (2001) and Development Code (2017)
City of Echo	City of Echo Comprehensive Plan (2005) and Zoning Administrative Regulations (2015)
State	
Oregon Department of Fish and Wildlife	Columbia Basin Wildlife Areas Management Plan (2008)
Oregon Parks and Recreation Department	Hat Rock State Park Master Plan (1983)*
Federal	
BLM, Vale District	Baker Resource Management Plan (BLM 1989)
USFWS	McNary and Umatilla National Wildlife Refuges Comprehensive Conservation Plan and Environmental Assessment (USFWS 2007)
US Army Corps of Engineers	Lake Umatilla and Lake Wallula Recreation Management Areas – John Day Lock and Dam Master Plan (1976) and McNary Shoreline Management Plan (2012)

*This plan was not identified in ASC Exhibit R.



Council Review of DPO/Comments

Section IV.K. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090 [DPO Page 130]

Section (1) of the Historic, Cultural and Archaeological Resources standard generally requires the Council to find that a proposed facility is not likely to result in significant adverse impacts to identified historic, cultural, or archaeological resources.

Resources protected under the standard include archeological sites (ORS 358.905(1)(c)), archeological objects (ORS 358.905(1)(a)) and any historic, cultural or archeological resource listed or likely eligible for listing on the National Register of Historic Places (NRHP).

Council Review of DPO/Comments

Section IV.K. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090

- There are no resources of importance or significance to the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) within or adjacent to the site that could be impacted by the proposed facility.
 - **Recommended Historic, Cultural, and Archaeological Resources Conditions 1 and 2** require a construction and operational Inadvertent Discovery Plan.
- Proposed site boundary includes two historic utility corridors containing operating transmission lines: Bonneville Power Administration's (BPA) McNary to Roundup 230-kilovolt (kV) line which was constructed in 1952 and PacifiCorp's Pendleton to Hermiston 69-kV line, which was constructed in 1941.
- Proposed facility layout would maintain the rights-of-way for the existing transmission lines and would not otherwise impact the historic value of the operating lines.

Council Review of DPO/Comments

Section IV.K. Historic, Cultural, and Archaeological Resources: OAR 345-022-0090

- There are no historic, aboveground resources within or adjacent to the site that could be impacted by the proposed facility.

Historic Properties Inventory Report

Statement of Significance

In 1914, the land was owned by Inland Irrigation Company (Ogle 1914). In 1932, it was owned by (1932). It is currently owned by Kenneth Brown (Umatilla buildings or structures from its ownership by the Irrigation property do not appear to relate to any significant themes). The property also does not relate to any historically (ion B). Ranch style houses are one of the most common of the twentieth century. Although this example is clearly undergone significant alterations that completely obscure the does not retain integrity of design, materials, or evidence to suggest that the property could provide future (Criterion D). Therefore, neither the property nor the ible for listing in the NRHP.

y Ln., Stanfield, OR on tax lot 4N29180000800. According to Umatilla County 2022), the property consists of a residence (1940,) and a machinery storage shed (2005 with a 2015 al fields and a canal runs through the middle of the parcel.

Historic Properties Inventory Report



Photograph 8. 78926 Melody Ln., Stanfield, OR. View to the Southwest.

The saltbox roof shed is difficult to distinguish from the public right-of-way as it is blocked by agricultural equipment and other buildings. The shed is open on its east elevation and is covered with wood clapboard siding on the other elevations. The roof slopes gently from west to east and is composed of mostly rafters as much of the roof covering is missing. The shape of the shed suggests it may have once been used to house livestock, but no extant fencing could be distinguished to support that theory. The Umatilla County Tax Assessor lists the effective year built for the shed as 1960, but the advanced rate of decay supports a true construction date contemporary with the original residence, if not earlier. No other evidence supporting a more definitive construction year could be found.

Statement of Significance

The land was patented by Peter Akers and Edwin P. Marshall in 1908 (BLM 1908). By 1914, the land was owned by Inland Irrigation Company (Ogle 1914). In 1932, it was owned by the Stanfield Irrigation District (Metsker 1932). As of 2022, the property was owned by Sharron Reise and her son Eric (Umatilla County 2022). Sharron had owned the property with her husband Otto C. Reise Jr. (1923-2015) whom she married in 1966 (Burns Mortuary of Hermiston 2015). It is unclear when the pair moved to the home, but it is possible they are responsible for the remodel, though not the original construction. The builder of the residence could not be determined through available property records and other historic documents.

Otto Reise had been a daffodil and tulip farmer on his family's farm prior to his marriage, but there is not evidence that he continued the practice at 78926 Melody Lane (Burns Mortuary of Hermiston 2015). The property is not clearly associated with any other historical patterns or events (Criterion A). Otto also owned a water purification company, "Pure-n-soft Water", but it is not evident that his company or any other business of community ventures were associated with the buildings present.



78926 Melody Ln., Stanfield, OR. View to the Northeast.

Council Review of DPO/Comments

Section IV.L. Recreation: OAR 345-022-0100 [DPO Page 142]

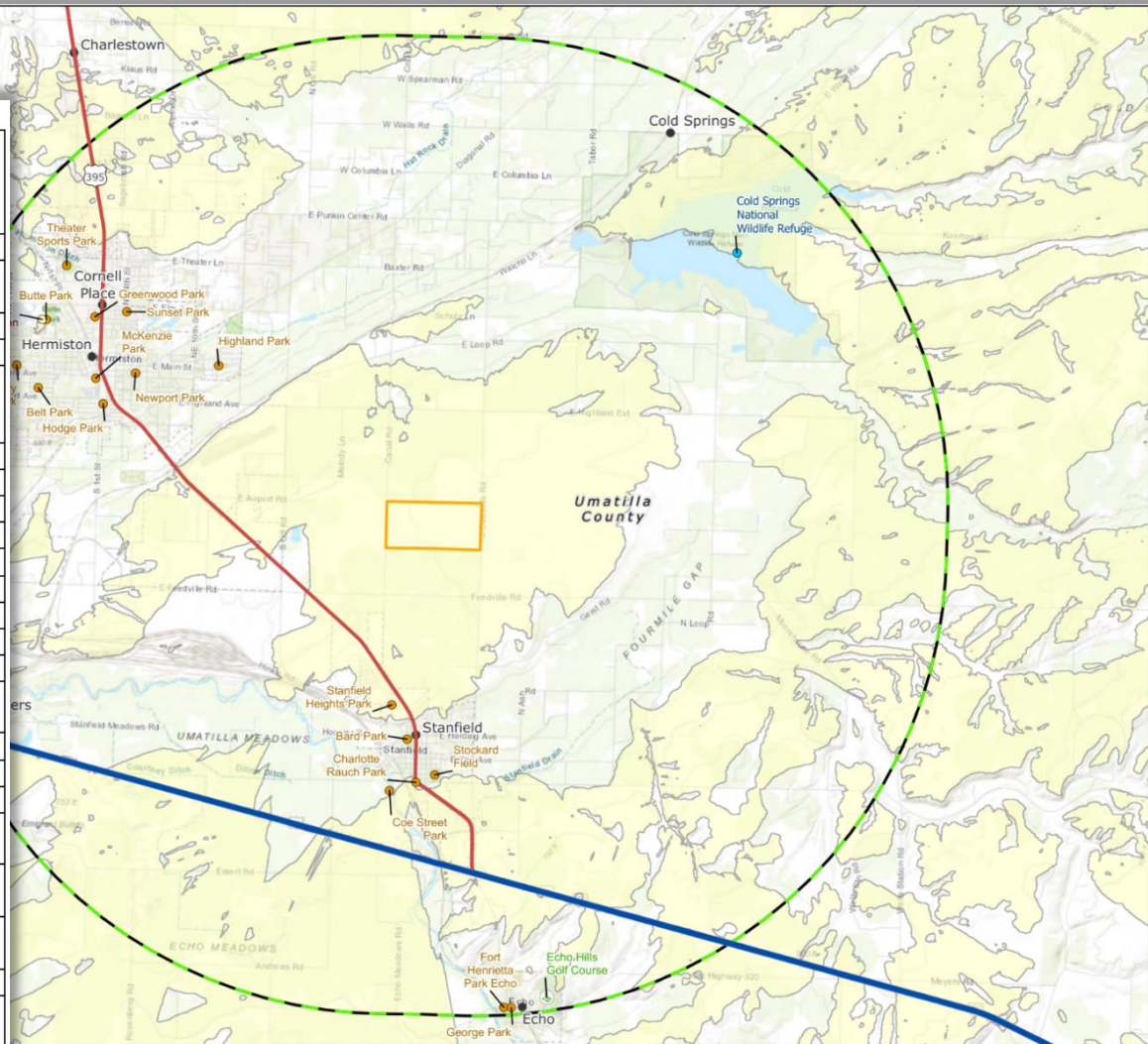
Recreation standard requires the Council to find that the design, construction, and operation of a facility would not likely result in significant adverse impacts to “important” recreational opportunities. Therefore, the Council’s Recreation standard applies only to those recreation areas that the Council finds to be “important,” utilizing the factors listed in the subparagraphs of section (1) of the standard.

Council Review of DPO/Comments

Section IV.L Recreation: OAR 345-022-0100

Table 12: Recreational Opportunities, Distance from Site Boundary, and Importance Designation

Recreational Opportunity	Management or Jurisdiction	Distance from Site Boundary (miles)	Special Designation	Determination of Importance (Yes/No)
Stanfield Heights Park	City of Stanfield	1.7	Municipal Park	No
Nathan Bard Memorial Community Park	City of Stanfield	2.0	Municipal Park	No
Highland Park	City of Hermiston	2.3	Municipal Park	No
Stockard Field	City of Stanfield	2.4	Municipal Park	No
Cold Springs National Wildlife Refuge	Federal State (ODFW for hunting access)	2.4	National Wildlife Refuge	Yes
Rauch Park	City of Stanfield	2.5	Municipal Park	No
Coe Park	City of Stanfield	2.6	Municipal Park	No
Newport Park	City of Hermiston	3.0	Municipal Park	No
Hodge Park	City of Hermiston	3.2	Municipal Park	No
McKenzie Park	City of Hermiston	3.4	Municipal Park	No
Sunset Park	City of Hermiston	3.5	Municipal Park	No
Greenwood Park	City of Hermiston	3.7	Municipal Park	No
Belt Park	City of Hermiston	3.9	Municipal Park	No
Butte Park	City of Hermiston	4.1	Municipal Park	Yes
Hermiston Butte	Federal	4.2	BLM Recreation Area	Yes
Victory Square Park	City of Hermiston	4.2	Municipal Park	No
Theater Sports Park	City of Hermiston	4.3	Municipal Park	No
Harrison Park	City of Hermiston	4.6	Municipal Park	No
Hermiston Desert Disc Golf Course	City of Hermiston	4.7	Municipal Park	No
Oxbow Trail	City of Hermiston	4.7	Municipal Hiking Trail	No
Echo Hills Golf Course	City of Echo	4.9	Municipal Golf Course	No
F.T. George Park	City of Echo	4.9	Municipal Park	No
Fort Henrietta Park and Campground	City of Echo	4.9	Municipal Park	Yes



West End Solar Project

Figure T-2 Recreational Opportunities with ZVI

UMATILLA COUNTY, OR

- Proposed Site Boundary
- Analysis Area (5-mile Buffer)
- Golf Course
- Bureau of Land Management
- US Department of Fish and Wildlife
- City, County, and State Parks
- Interstate Highway
- US Highway
- City/Town
- County Boundary
- Viewshed Results
- Not Visible
- Solar Facility Potentially Visible

TETRA TECH Eurus Energy

Reference Map



1:70,000 WGS 1984 UTM Zone 11N

0 0.5 1 2 3 4 Miles

NOT FOR CONSTRUCTION



Council Review of DPO/Comments

Section IV.M. Public Services: OAR 345-022-0110 [DPO pages 232-273]

IV.M.1. Sewers and Sewage Treatment

IV.M.2. Water Services → IV.Q.3. Water Rights

IV.M.3. Stormwater Drainage

IV.M.4. Solid Waste Management → IV.N. Waste Minimization

IV.M.7. Police Protection

IV.M.9. Housing

IV.M.10. Healthcare and Schools

Council Review of DPO/Comments

Section IV.M. Public Services: OAR 345-022-0110 [pages 241]

IV.M.5. Traffic Safety:

Recommended Public Services

Condition 1 would require that the applicant implement and submit a final Traffic Management Plan which would include Road Use Agreements executed between the applicant and the County as well as the submission of any ODOT permits acquired by applicant or third-party contractor.

Table 13: Facility Construction Traffic Impacts to Area Highways

Location	Existing AADT (2019 ¹)	Estimated Current LOS ²	Estimated Existing V/C ^{3,4}	Facility Construction Traffic (Peak Trips Per Day, One-Way) ⁶			AADT with Facility Traffic	Projected V/C with Peak Construction Traffic ^{5,4}	Projected LOS with Peak Construction Traffic
				Total Peak Trips	Worker Traffic	Truck Traffic			
I-82 – Umatilla Bridge ATR Station 30-025	21,600	A	0.17	356 ⁷	320	36	21,956	0.17	A (no change)
I-84 - 2.56 miles east of US 395 interchange	17,300	B	0.51	534 ⁸	480	54	17,834	0.52	B (no change)
US-395 – 0.02 miles north of Gladys Ave/OR-207 (located within UGB)	19,300	C/D	0.72	356 ⁷	320	36	19,656	0.73	C/D (no change)
US-395 – Stanfield ATR Station 30-019 (0.12 miles north of Feedville Rd)	8,200	A	0.30	356 ⁷	320	36	8,556	0.32	A (no change)
US-395 – 0.5 miles north of I-84 interchange	8,600	A	0.32	534 ⁸	480	54	9,134	0.34	A (no change)
US-730 - 0.5 miles east of I-82 interchange	12,400	A	0.46	356 ⁷	320	36	12,756	0.47	A (no change)

1. Data from ODOT (2019).
2. Based on estimated volume to capacity (V/C) and equivalent level of service (LOS) as presented in Table U-5.
3. Estimated by dividing existing annual average daily traffic (AADT) by the maximum ADT of the federal functional class for the applicable highway segment (from Table U-6).
4. Segments below maximum ODOT V/C ratios in Table U-4.



Council Review of DPO/Comments

Section IV.M. Public Services: OAR 345-022-0110 [DPO page 260]

IV.M.8. Fire Protection:

- Fire protection agencies that would serve the proposed facility in case of a fire emergency is the Umatilla County Fire District #1
- Recommended Public Services Condition 4 and 5 would require the applicant to provide a site orientation and training on facility safety procedures, based on requests from Umatilla County Fire District #1 (UDFD #1).



Umatilla County Fire District #1

**320 S. 1st Street
Hermiston, OR 97838**

541-567-8822 Bus | ucfd1.com
541-564-6463 Fax | fire.district@ucfd1.com

To: Elizabeth Bradley, Tetra Tech

Date: 07/06/2021

Re: West End Solar Project

Elizabeth,

This letter is to confirm that the proposed project site is within the boundaries of Umatilla County Fire District #1 for fire, hazardous materials, and emergency medical services.

The provisions of Section 1204 of the 2019 Oregon Fire Code will provide adequate safety provisions provided the required maintenance in these sections are carried out.

Umatilla County Fire District #1 and the Board of Directors has also enacted a fee structure through Resolution 2019-2020 #2. This pertains to development within the fire district boundaries that meet certain criteria and take advantage of certain tax incentive programs in areas where the fire district is obligated to provide services (see attached).

Umatilla County Fire District #1 would also like to have training on the solar arrays and safely operating around them and any proposed battery storage as this is the first significant installation within our fire district.

Feel free to contact myself or Chief Scott Stanton if you have any questions or need more information.

Sincerely,

A handwritten signature in blue ink that reads "Scott A. Goff".

Scott A. Goff, Division Chief/Fire Marshal

Council Review of DPO/Comments

Section IV.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115

[DPO Page 176]

To issue a site certificate, the Council must find that:

(a) The applicant has adequately characterized wildfire risk within the analysis area using current data from reputable sources, by identifying:

- (A) Baseline wildfire risk, based on factors that are expected to remain fixed for multiple years, including but not limited to topography, vegetation, existing infrastructure, and climate;*
- (B) Seasonal wildfire risk, based on factors that are expected to remain fixed for multiple months but may be dynamic throughout the year, including but not limited to, cumulative precipitation and fuel moisture content;*
- (C) Areas subject to a heightened risk of wildfire, based on the information provided under paragraphs (A) and (B) of this subsection;*
- (D) High-fire consequence areas, including but not limited to areas containing residences, critical infrastructure, recreation opportunities, timber and agricultural resources, and fire-sensitive wildlife habitat; and*
- (E) All data sources and methods used to model and identify risks and areas under paragraphs (A) through (D) of this subsection.*

Council Review of DPO/Comments

Section IV.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115

[DPO Page 176]

To issue a site certificate, the Council must find that:

(b) That the proposed facility will be designed, constructed, and operated in compliance with a Wildfire Mitigation Plan approved by the Council. The Wildfire Mitigation Plan must, at a minimum:

- (A) Identify areas within the site boundary that are subject to a heightened risk of wildfire, using current data from reputable sources, and discuss data and methods used in the analysis;*
- (B) Describe the procedures, standards, and time frames that the applicant will use to inspect facility components and manage vegetation in the areas identified under subsection (a) of this section;*
- (C) Identify preventative actions and programs that the applicant will carry out to minimize the risk of facility components causing wildfire, including procedures that will be used to adjust operations during periods of heightened wildfire risk;*
- (D) Identify procedures to minimize risks to public health and safety, the health and safety of responders, and damages to resources protected by Council standards in the event that a wildfire occurs at the facility site, regardless of ignition source; and*
- (E) Describe methods the applicant will use to ensure that updates of the plan incorporate best practices and emerging technologies to minimize and mitigate wildfire risk.*

Council Review of DPO/Comments

Section IV.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115

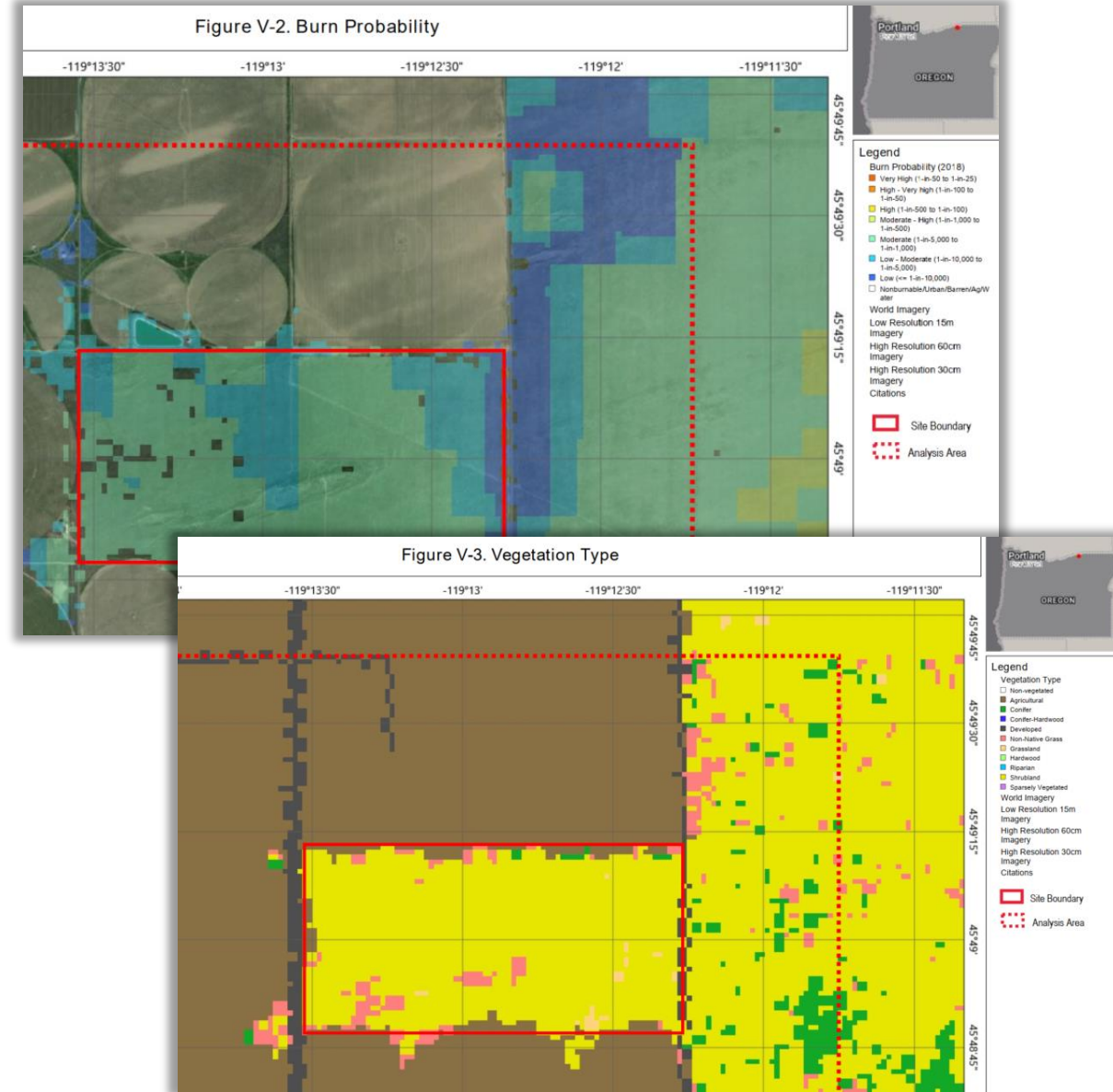
Characterization of Wildfire Risk within Analysis Area

Baseline Fire Risk [OAR 345-022-0115(1)(a)(A)]

➔ Topography, Vegetation, Fire Hazards to Infrastructure, Fire History, Active Fires, and Burn Probability, and Regional Climate

Seasonal Wildfire Risk [OAR 345-022-0115(1)(a)(B)]

➔ Precipitation, Fuel Moisture Content and Flame Length



Council Review of DPO/Comments

Section IV.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115

Characterization of Wildfire Risk within Analysis Area

- The wildfire risk within the site boundary is moderate; the wildfire risk within the analysis area is moderate or low.
- The Emergency Management and Wildfire Mitigation Plan includes the necessary criteria under OAR 345-022-0115(1)(b)(A) through (E) and is attached to the DPO as Attachment V-1.

Draft Emergency Management and Wildfire Mitigation Plan

Vegetation Management Procedures and Timing

- The Applicant will conduct periodic vegetation maintenance within the Project's fenced area to maintain vegetation within the fence line and to maintain a 5-foot noncombustible, defensible space clearance along the fenced perimeter of the Site Boundary. Defensible space will be free of combustible vegetation or other materials. Roads and parking areas will be maintained to be free of vegetation tall enough to contact the undercarriage of the vehicle. The timing and frequency of the periodic vegetation maintenance (e.g., mechanical/grazing/hand pulling, etc.) will depend on the conditions on site (weather, vegetation growth, season, etc.) but is anticipated to be conducted weekly or monthly during the vegetation growing season (spring/early summer) and will be less frequent during the dry season where vegetation is anticipated to go dormant.
- A physical vegetation survey assessment of the fenced area will be completed at least once annually to monitor for vegetation clearances, maintenance of fire breaks, and monitor for wildfire hazards. The vegetation survey assessment will occur in May or June, prior to the start of the dry season, a time when wildfire risk is heightened. The survey will be conducted by the Site Operations Manager and will be used to assess the frequency of the periodic vegetation maintenance (e.g., mechanical/grazing/hand pulling, etc.) and identify areas that may need additional attention. Observations in the vegetation survey will include:
 - Location
 - Species
 - Estimated growth rate
 - Abundance
 - Clearance / Setbacks
 - Risk of fire hazard

4.2.3 Fire Department Access

(See also Section 1.3.1)

4.2.3.1 Site Access

To be defined in construction drawings.

4.2.3.2 Internal Site Access Roads

Council Review of DPO/Comments

Section IV.N. Wildfire Prevention and Risk Mitigation: OAR 345-022-0115

Characterization of Wildfire Risk within Analysis Area

- **Recommended Wildfire Prevention and Risk Mitigation Condition 1** requires the applicant to submit to the Department and the Umatilla County Fire District #1 (UCFD #1), a Final Construction Emergency Management and Wildfire Mitigation Plan (EMWMP) and Recommended Wildfire Prevention and Risk Mitigation Condition 2, requires the applicant to submit to the Department and the UCFD #1, a Final Operational EMWMP.
- **Recommended Wildfire Prevention and Risk Mitigation Condition 3** imposes the applicant-representation for implementing the Operational EMWMP, and includes the schedule that the applicant would evaluate wildfire risk at the site and submit the results to the Department.

1.2.2 Construction Activities and Sequencing/Schedule

To be determined (TBD)

1.2.3 Operations and Maintenance Activities and Schedule

1.2.3.1 Facility Inspections

In general, the Project will be monitored and operated remotely using the Supervisory Control and Data Acquisition (SCADA) System which will be installed to collect operating and performance data from the solar arrays. Smoke/fire detectors will be placed around the site that will be tied to the SCADA System and will contact local firefighting services as needed.

Additionally, the BESS will have an integrated fire safety system that monitors heat, and smoke, and provides dedicated annunciation/alarming in the event a fire condition is detected, automatically returns the system to a standby mode and if necessary, automatically deploys an appropriate suppression agent. The fire alarm functions are handled by a common fire alarm control panel (FACP) in the auxiliary control cabinet. The FACP monitors the status of the detectors and initiates an alarm if a fire is detected. The panel is set up with fire detection zones for the detectors in the battery enclosures. The FACP is connected to the local strobe and siren unit for alarm annunciation. Internal batteries in the FACP provide backup power if the main power supply is temporarily lost.

The SCADA system will allow the Applicant to monitor the Project components, such as the substation, solar arrays, and BESS, 24 hours a day, 7 days a week. The SCADA system will have functionality that will allow the applicant to start and stop any aspect of the facility. These facility components would be inspected quarterly.

These operational monitoring and maintenance measures are also discussed in Section 1.2.1, under Project Design Features that Minimize Fire Risk.

In addition to the remote monitoring, onsite inspections of Project equipment will occur quarterly. Onsite inspections will include check lists provided by the Original Equipment Manufacturer and the use of utility industry best practices.

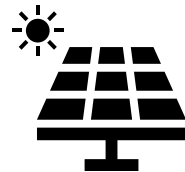
1.2.3.2 Heightened Wildfire Risk Preventive Action

The Applicant will minimize risk of facility components causing wildfire through Project design (see Section 1.2.1), through operations and maintenance activities including the regular maintenance and inspection of Project components (see Section 1.2.3.1) and the Project's vegetation management program (see Section 4.2.2), and through the emergency response procedures described in this EMWMP.

Council Review of DPO/Comments

Section IV.O. Waste Minimization: OAR 345-022-0120 [DPO Page 186]

- **Recommended Waste Minimization Condition 1** requires that the applicant maintain plans to manage the accumulation, storage, disposal and transportation of waste generated by operation of the facility,
- **Recommended Waste Minimization Condition 2** requires annual reporting of: quantities of solar panels and lithium-ion batteries recycled or disposed of, the identification of the availability of programs or licensed facilities that recycle solar panels and lithium-ion batteries, and the identification of final recycling destination facility or program for recycled solar panels and lithium-ion batteries. If recycling programs or facilities are not available, the identification of final disposal destination facility or program for disposed solar panels and lithium-ion batteries and their capacity to accept waste.



Council Review of DPO/Comments

Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction [DPO pages 191]

IV.Q.1. Noise Control Regulations: OAR 340-035-0035

There are 12 noise sensitive receptors (NSRs) identified within 1-mile of the proposed site boundary and evaluated for operational noise impacts.

The maximum noise level for noise-generating equipment, at the noise source is:

- 25 inverters
- 25 inverter step-up transformers
- 2 main power transformers
- 200 battery storage HVAC units

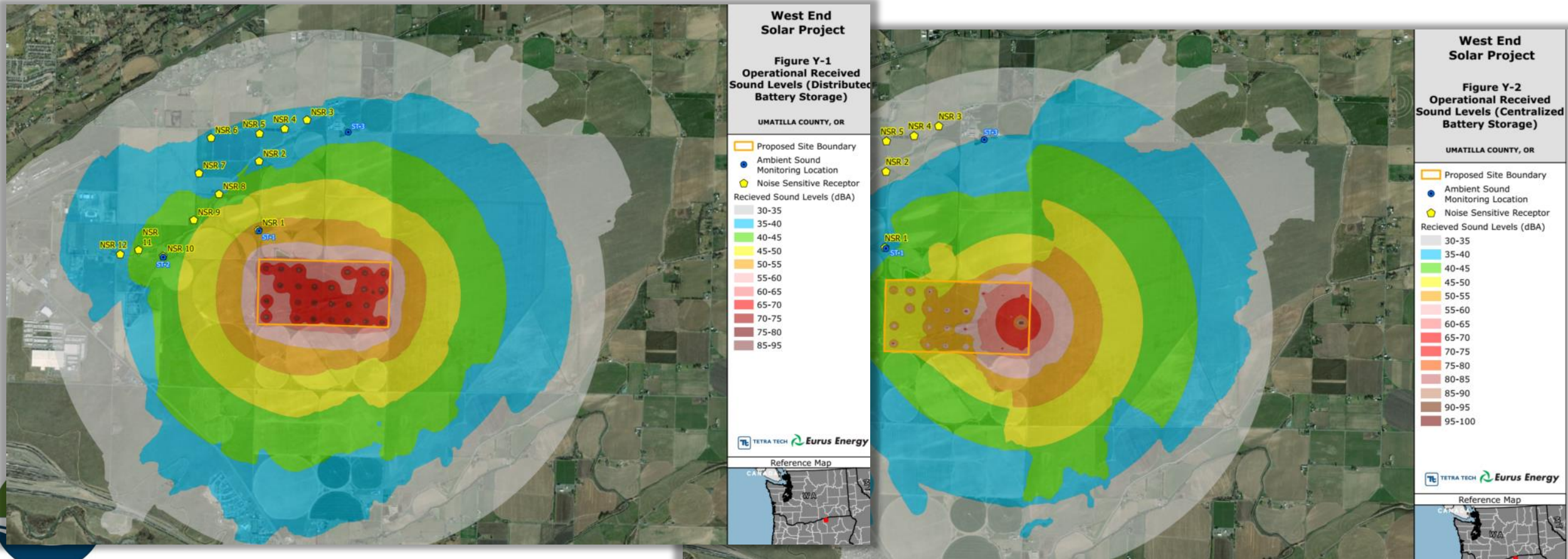
Noise modeling was conducted under two different design or build-out scenarios:

1. Distributed Battery Storage: Eight (8) battery energy storage units collocated with each of the 25 inverter skids (200 battery energy storage units total); and
2. Centralized Battery Storage: Two hundred (200) battery storage units would be located in one consolidated area in proximity to the collector substation.

Council Review of DPO/Comments

Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction

IV.Q.1. Noise Control Regulations: OAR 340-035-0035



Council Review of DPO/Comments

Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction

IV.Q.1. Noise Control Regulations: OAR 340-035-0035

Recommended Noise Control Condition 1, prior to construction, the applicant will provide to the Department:

- a. Final facility layout; and number, type, and noise level (dBA) of all noise generating equipment...
- b. If the final design of the facility includes distributed battery storage, provide an acoustic modeling analysis using manufacturer based noise levels (dBA) that demonstrate compliance with the ambient degradation standard and maximum allowable noise standards.

Recommended Noise Control Condition 2 and 3 require a noise complaint response system.

Council Review of DPO/Comments

Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction

IV.Q.2. Removal-Fill [DPO pages 203]

- Field surveys conducted to identify the three field indicators of wetlands (hydrophytic vegetation, hydric soils, and wetland hydrology)
- On July 21, 2022, DSL provided its preliminary jurisdictional determination which indicated that; “Based on available offsite information and additional information provided by the applicant, it is unlikely that jurisdictional wetlands or waterways are present on the property.”
- Department recommends that the Council find that a removal-fill permit is not needed for the proposed facility because there are no wetlands or WOS present at the site.

Council Review of DPO/Comments

Section IV.Q. Other Applicable Regulatory Requirements Under Council Jurisdiction

IV.Q.3. Water Rights [DPO Page 208]

- Approximately 10.5 to 12.8 million gallons (Mgal) of water would be used during a 12-month construction period for civil and site preparation for road compaction and dust suppression, as well as water used for concrete mixing for foundations, and fire protection.
 - No water right is needed, water obtained from City of Hermiston.
- During facility operation, water would be used for solar module washing, approximately twice a year amounting to approximately 1.65 Mgal each year.
- **Recommended Water Rights Condition 1**, requires that the applicant identify all water-related needs and estimate daily and annual water demand for each construction phase and provide excerpts of agreements or other similar conveyance from the water-providing entity to the Department demonstrating.



Council Deliberation and Recommendations

BREAK

Agenda Item F (Action Item)

Annual Election of Council Officers

December 16, 2022

Todd Cornett, Council Secretary

OAR 345-011-0010(1)

- The Council shall annually elect a chair and a vice-chair.
- The chair and vice-chair shall serve for one year or until their successors are elected.
- A member may serve successive full terms as chair or vice-chair.

Council Deliberation

Agenda Item G (Action Item)

Protected Areas Rulemaking

December 16, 2022

Christopher Clark, Senior Siting Analyst, ODOE

Presentation Overview

- Background and Procedural History
- Summary of Proposed Rules
- Overview of New Public Comments & Recommended Responses
- Council Consideration of Permanent Rules

Background - Rulemaking Process



Background

- The Council must adopt standards for the siting of energy facilities, including standards to address:
 - Areas designated for protection by the state or federal government, including but not limited to monuments, wilderness areas, wildlife refuges, scenic waterways and similar areas. ORS 469.501(1)(c).
 - Impacts of the facility on recreation, scenic and aesthetic values. ORS 469.501(1)(i).
- The Protected Areas and Scenic Resources Standards were last updated in 2007. The Recreation Standard was last updated in 2002.

Background – Scope and Objectives

- **Scope:** Address issues related to the Protected Areas, Scenic Resources, and Recreation Standards and associated rules.
- **Objectives:**
 - Ensure that the standards clearly identify the resources and values they are intended to protect.
 - Ensure that the standards are consistent with ORS 469.310.
 - Improve efficiency and effectiveness of Council’s review processes and procedures by resolving ambiguity, lack of clarity, and inconsistency in rule.

Procedural History

Item	Date
Council initiates rulemaking	October 22, 2020
Staff solicits written comments	November 6, 2020
Council review of preliminary feedback	April 23, 2021
	July 28, 2021
Staff conducts rulemaking workshops	August 18, 2021
	October 14, 2021
Council provides feedback on preliminary analysis and recommendations	February 25, 2022
Staff solicits comments on revised draft rules	March 7, 2022

Procedural History

Item	Date
Council considers proposed rules	April 22, 2022
	May 27, 2022
Council approves proposed rules	May 27, 2022
Staff issues NOPR	June 1, 2022
Rulemaking hearing	June 23, 2022
Last day for public comment	July 21, 2022
	July 22, 2022
Council considers comments	October 28, 2022

Procedural History

Item	Date
Council appoints Fiscal Impact Advisory Committee	October 28, 2022
Fiscal Impact Advisory Committee meeting	November 14, 2022
Staff issues Amended NOPR	November 18, 2022
Extended deadline for public comment	December 8, 2022
Council review of comments and consideration of permanent rules	December 16, 2022

Summary of Proposed Rules

- **Protected Areas Standard**

- Require an applicant to identify the managing agency of any protected area in the applicable study or analysis area for the project, as well as a mailing address and any other reasonably available contact information, in the notice of intent and application for site certificate.
- Amend the Protected Areas Standard to remove the effective date for designations, allowing Council to consider impacts to protected areas that are designated prior to the filing of a complete application.
- Update and simplify the list of designations that are considered “protected areas” under the Protected Areas Standard and remove specific examples to reduce the need for future rulemaking.
- Clarify exception for when a linear facility may be located within a Protected Area.

Summary of Proposed Rules

- **Scenic Resources Standard**

- Amend Scenic Resources Standard to require assessment of visual impacts to State Scenic Resources.
- Makes clarifying changes to the Exhibit R requirements for visual impact assessments.

- **Scenic Resources and Recreation Standard**

- Amend the Recreation and Scenic Resources Standards to allow Council to consider evidence introduced into the record related to impacts to scenic resources and recreational opportunities outside the analysis area.

- **Administrative/Organizational**

- Move definition of “Protected Area” to Division 001.
- Specify that amended standards are only applicable to the review of applications or requests for amendment filed on or after the effective date of the rules.

Summary of Public Comments

- Three persons provided comment at the June 23, 2022 rulemaking hearing.
- As of July 21, 2022, 77 written comments had been provided on the proposed rules. These comments were reviewed at the Council's meetings in July and October.
- All comments received before the deadline have been provided to the Council and posted to the "siting docket".
- As of 5:00 pm on December 8 ,2022, 2 comments had been received on the Amended Notice of Proposed Rulemaking.

Cost of Compliance for Small Business (Att 2, pg. 2)

Comment: OSSIA disagrees with determination that impact of proposed rules on small businesses will not be significant and requests that Council:

- Fully exempt small businesses from compliance with the Rulemaking;
- Exempt small businesses from compliance with the requirement to provide names, addresses, phone numbers, and email addresses of any land management agency or organization with jurisdiction over the protected areas proposed to be added to Exhibit L of an Application for Site Certificate;
- Provide a mechanism to assist small businesses with compliance with the Rulemaking, such as allowing small businesses to submit a project area map for the Department to undertake the analysis of impacted protected areas.

Rulemaking Impacts on Small Business (Att. 2, pg. 3.)

Comment: OSSIA strongly recommends that EFSC direct the Department to undertake efforts to better measure the impact of rulemakings on small businesses, including:

- **Report:** Issuing a report within 6 months, with 12-month updates thereafter, documenting: (1) the number of solar permits issued by EFSC to small businesses, as compared to the number of EFSC applicants; (2) the average timeline from application submittal to permit issuance; (3) the fallout rate of applications; and (4) the average costs to applicants including both estimates of reimbursable costs pursuant to ORS 469.421 and non-reimbursable costs, with an opportunity for companies to voluntarily provide expense data.
- **Committee:** Convening a special advisory group to examine standards and process changes that could reduce burdens on potential and actual EFSC applicants that are small businesses.

Rulemaking Impacts on Small Business (cont'd)

- **Guidance:** Preparing an agency guidance document that: (1) outlines the Department's approach to conducting a small business impact analysis; (2) explains how the Department ensures compliance with ORS 183.336(1)(d) to involve small businesses in the development of rules; and (3) provides a statement of the agency's legal interpretation of the definition of "small business" under ORS 183.310(10)(a).
- **Recommendations:** Based on those inputs, examining and preparing rulemaking and legislative recommendations to alleviate burdens on small businesses related to obtaining an EFSC permit, and considering expected increases in the number of permit applications to meet Clean Energy Targets under HB 2021.

Request to Extend Comment Period (Att. 2, pg. 4)

Comment: Friends recommends that Council further extend the comment period on the proposed rules in order to allow the public to assist the Council with developing and adopting rules that fully comply with the applicable law and protect the public interest.

Definition of Protected Areas (Att. 2, pg. 4)

Comment: Friends recommends that The proposed definition of “Protected Area” will not adequately protect Oregon’s special places and sensitive resources from the harmful effects of large energy projects.

- Friends requests that Council revise the definition of “Protected Areas” as provided in its July 21, 2022 comments.
- Friends recommends that Council ensure the protection of National Trails from adverse effects by designating them as Protected Areas.

Protected Areas Managers as Reviewing Agencies (Att. 2, Pages 4-5)

Comment: The Department has misinterpreted the comments of the Columbia River Gorge Commission as well as Friends' comments regarding the requests to designate agencies that manage protected areas as "reviewing agencies" in the Council's rules.

- CRGC recommended Council add "A public agency (not identified in the list) that manages a protected area within the study area" to definition of reviewing agency.
- Friends recommends, "The agencies that directly manage Protected Areas should also be deemed reviewing agencies under the Council's rules in order to ensure their meaningful input and participation in the energy facility siting review process, and to comply with the Siting Act."
- Merely providing notice is insufficient and does not guarantee that their costs will be reimbursed as would happen if they are included as reviewing agencies.

Visual Impact Assessments (Att 2. pg. 6-7)

Comment: The Council should continue to require to identify the potential visual impacts of proposed projects on protected areas, scenic resources, and recreation resources; and should clarify within its rules that the required assessments of impacts to these resources must identify any potential changes in landscape character or quality and must assess the significance of any impacts.

- Friends recommends adopting the language “Visual impacts of facility structures or plumes, including changes in landscape character or quality” for all three types of resources involved (protected areas, scenic resources, and recreation resources).

Visual Impact Assessments (cont'd)

- Friends supports the proposed rule language clarifying that the required visual impact assessment will include “[a]n assessment of the significance of the visual impacts.” Currently, this language is only proposed for Exhibit R (Scenic Resources). The same or similar rule language should also be adopted as part of Exhibit L (Protected Areas) and Exhibit T (Recreation).
- The Council should simply clarify within its rules that applications for energy facilities must include assessments of the significance of any impacts to protected areas, scenic resources, and recreation resources.

Recommended Council Action

- Adopt the amendments of the Protected Areas, Scenic Resources, and Recreation Standards and Associated Rules, as provided in the Draft Permanent Order (Attachment 4), as permanent rules to be effective upon filing.
- Council may make additional changes to proposed rules in response to public comments received during the initial or extended comment period.

Council Decision on Permanent Rules

Option 1 – Staff Recommendation

Adopt proposed rules included in Attachment 1 as permanent rules.

Option 2

Adopt proposed rules included in Attachment 1 as permanent rules, with modifications.

Option 3

Take no action.

Council Deliberation

Agenda Item H (Action Item)

Annual Rulemaking Update

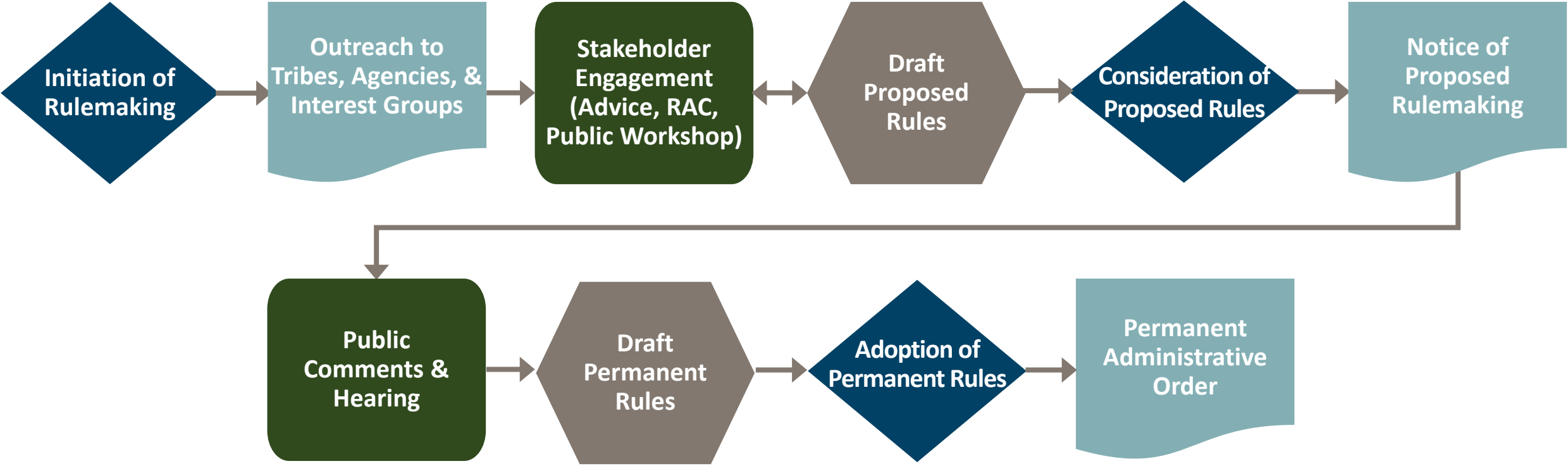
December 16, 2022

Tom Jackman, Siting Policy Analyst & Rules Coordinator, ODOE

Overview

- Overview of the Rulemaking Process
- Review of 2022 Rulemaking Activity
- Proposed 2023-2025 Rulemaking Schedule
- Public Comment
- Council Deliberation

Overview of Rulemaking Process



 Council Action

 Staff Recommendation

 Public Involvement

 Notices and Filings

2022 Rulemaking Activity

ID	Title	Status/Next Steps
R215	Wildfire Prevention and Response	Rules Adopted
R217	Implementation of HB 2021 & 2022 Carbon Monetary Offset Rate Update	Rules Adopted
R184	Protected Areas, Scenic Resources, Recreation	Consideration of Permanent Rules
R195-050	Radioactive Waste Materials	Public Engagement – RAC
R204	2022 Site Certificate Amendment Rulemaking	Scoping
R211	Application Process Review – Phase 1	Scoping

Proposed Projects for 2023

ID	Subject Matter	Source of Advice
R195	Radioactive Waste Materials	RAC
R202	Research Reactors	Request for Written Advice
R223	Standby Generators	RAC
R211	Application Process Review – Phase 1	RAC
R194	Historic, Cultural and Archaeological Resources	RAC
R214	Contested Cases	RAC
R204	2022 Site Certificate Amendment Rulemaking	RAC

Proposed Modest Projects for 2023

ID	Subject Matter	Source of Advice
R195	Radioactive Waste Materials	RAC
R202	Research Reactors	Request for Written Advice
R223	Standby Generators	RAC

Proposed Large Projects for 2023

ID	Subject Matter	Source of Advice
<u>R211</u>	<u>Application Process Review – Phase 1</u>	<u>RAC</u>
R194	Historic, Cultural and Archaeological Resources	RAC
R214	Contested Cases	RAC
R204	2022 Site Certificate Amendment Rulemaking	RAC

Application Process Review

- Phase 1: Reorganize rules to create clear separation of procedural and substantive provisions.
- Scope: Minimal substantive changes to rules, which will be addressed in Phases 2 and 3.
- Public engagement and research done here will inform other potential upcoming rulemakings.

Historic, Cultural and Archaeological Resources

- OAR 345-022-0090 requires Council to find that the construction and operation of a facility are not likely to result in significant adverse impacts to certain historic, cultural or archaeological resources
- This rulemaking project would evaluate options to encourage communication and cooperation between the Department, applicants and tribal governments to identify historic, cultural, and archaeological resources early in the application process.

Contested Cases

- Interest and participation in the contested case process has increased in recent years, and several high profile contested cases have raised issues regarding the Council's rules for contested cases under OAR chapter 345, division 015.
- This rulemaking project would make recommendations to improve clarity in the contested case process and improve consistency with the Attorney General's Model Rules for Contested Cases under OAR chapter 137 and the Quasi-Judicial Land Use Hearing process used by local governments.

Site Certificate Amendment Rulemaking

- On October 28, 2022, Council initiated rulemaking to develop proposed revisions to the rules governing the expiration, amendment, and termination of site certificates under OAR chapter 345, division 027.
- The project will evaluate outstanding issues raised by stakeholders during the rulemaking proceedings on the permanent amendment rules adopted in January 2020 and will evaluate options to improve opportunities for public participation while minimizing adverse economic impacts on certificate holders.

Proposed Large Projects for 2023

R211 Application Process Review – Phase 1

R194 Historic, Cultural and Archaeological

R214 Contested Cases

R204 Site Certificate Amendment

Proposed Projects for 2024

Project ID	Subject Matter	Method for Obtaining Advice
R212	Application Process Review – Phase 2	RAC
R185	Exemptions	
R182	General Compliance	RAC
R221	Financial Assurance and Retirement	RAC

Proposed Projects for 2025+

Project ID	Subject Matter	Method for Obtaining Advice
R213	Application Process Review – Phase 3	RAC
R201	Geospatial Resources	RAC
R205	Mandatory Conditions in Site Certificates	RAC
R216	Natural Hazards Mitigation	RAC

Pending 5-Year Reviews

Project ID	Project Name	Due Date
R183	Solar Photovoltaic Power Generation Facilities	Complete by 6/20/2025
R207	Safe Public Meetings and Hearings	Complete by 10/23/2025
R195	Radioactive Materials Enforcement	Complete by 2/26/2026
R204	Amendment of Site Certificates	Complete by 1/28/2025

Public Comments on Rulemaking Schedule

How to Raise Your Hand in Webex:

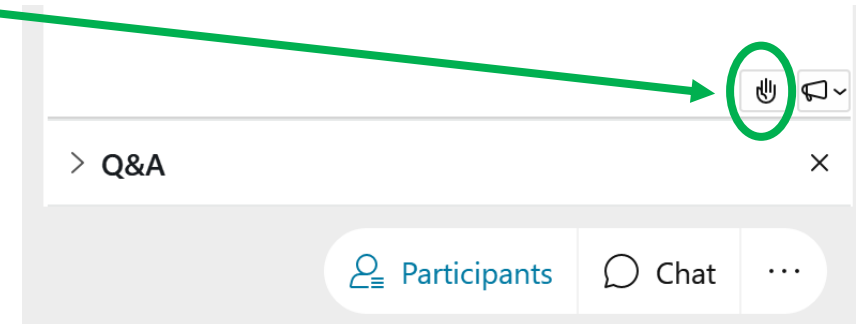
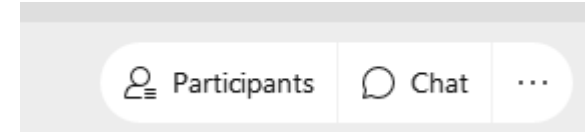
Webinar Participants

The bottom right of the main window is a set of icons:

Click on “Participants”

The bottom right of the participant window is a hand icon, click on the hand:

Clicking on it again will lower your hand.



Phone Participants

Press *3 on your telephone keypad to raise your hand.

Press *3 again on your telephone keypad to lower your hand.

Council Options

Approve and Prioritize

Approve rulemaking schedule as proposed by staff, with Council's specific prioritization of R194, R214 and R204 rulemaking projects.

Reprioritize

Reprioritize one or more rulemaking projects.

Council Deliberation

Agenda Item I (Action Item)

Alto Columbia, LLCs Request to Amend Port of Morrow Agreement to reflect Certificate Holder Change

December 16, 2022

Sarah Esterson, Senior Policy Advisor, ODOE

Presentation Overview

- Certificate Holder/Facility Background
- Request for POM Agreement Amendment
- Council Review/Action on Request

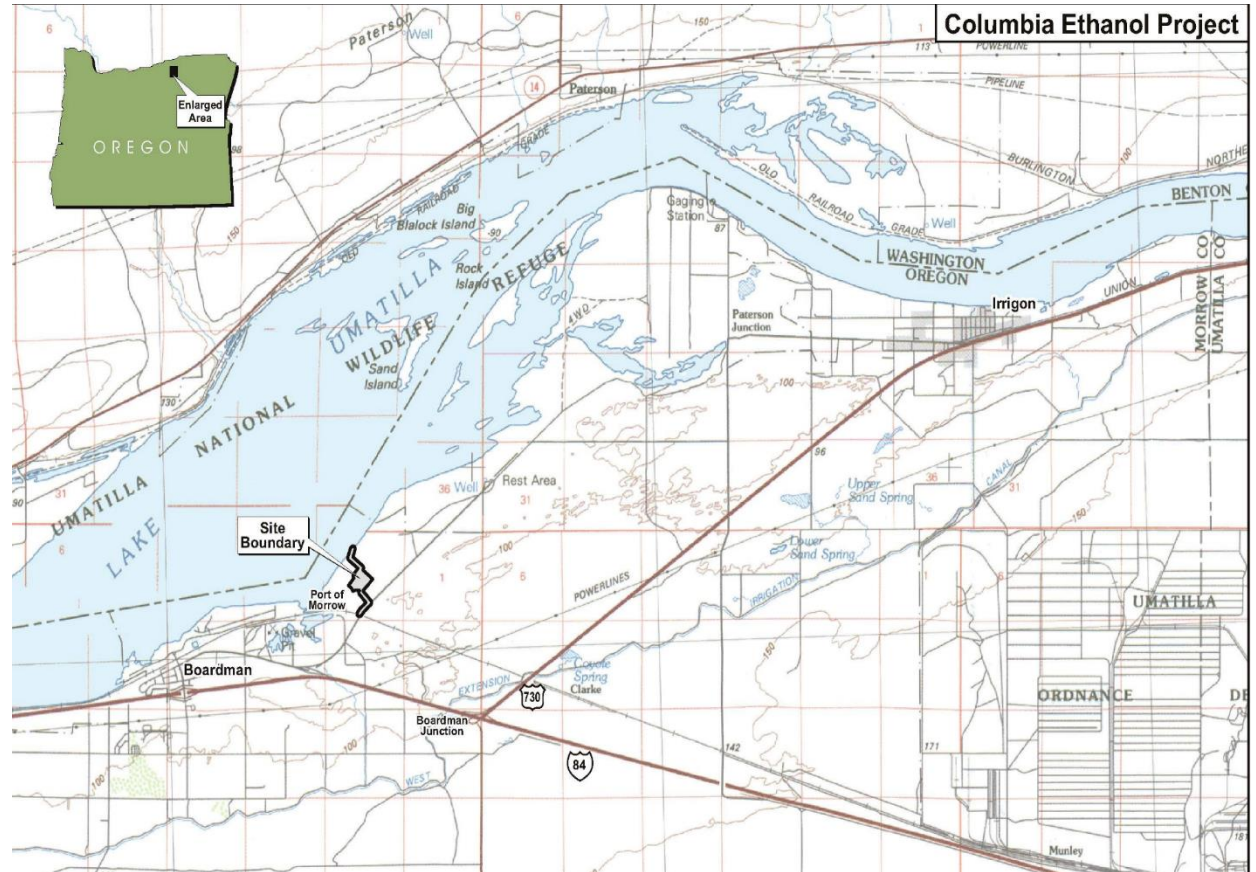
Facility Background

Certificate Holder: Alto Columbia, LLC

Type of Facility: Ethanol, 44 mg/yr

Location: Morrow County

Status: Operating



POM Agreement Amendment

Condition IV.C.13 (facility decommissioning bond/LOC requirement)

- Authorizes reduced decommissioning amount (from full facility take-down [\$900k] to facility component drain/clean-up but leave in place [\$300k])
 - But..requires executed agreement between certificate holder and Port of Morrow (POM) (underlying landowner), where POM agrees to take over the facility once materials are removed/disposed from equipment and equipment is cleaned
 - Condition requires that any amendment to the agreement be approved by Council

POM Agreement Amendment

Condition IV.C.13 (facility decommissioning bond/LOC requirement)

- In 2021, certificate holder went through a restructure – resulting in changes in name – from Pacific Ethanol, Inc. to Alto Ingredients, Inc.
- The POM agreement references Pacific Ethanol, Inc (previous cert holder name) and therefore needs to be amended to reflect new certificate holder name to ensure that the terms and conditions are maintained as legally binding now and in the future

Council Options for Columbia Alto, LLC

Approve – Staff Recommendation

Approve change to agreement to update name of certificate holder following 2021 organizational restructure.

Deny

Deny change to agreement to update name of certificate holder following 2021 organizational restructure for specific reasons.

Council Deliberation

Adjourn

