

EXHIBIT E – Application for Site Certificate

PERMITS

OAR 345-021-0010(1)(e)

REVIEWER CHECKLIST

(e) Exhibit E. Information about permits needed for construction and operation of the facility, including:

Rule Sections	Section	✓
(A) Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, mailing address, email address and telephone number of the agency or office responsible for each permit.	E.2	
(B) A description of each permit, the reasons the permit is needed for construction or operation of the facility and the applicant’s analysis of whether the permit should or should not be included in and governed by the site certificate.	E.2	
(C) For any state or local government agency permits, licenses or certificates that are proposed to be included in and governed by the site certificate, evidence to support findings by the Council that construction and operation of the proposed facility will comply with the statutes, rules and standards applicable to the permit. The applicant may show this evidence: <div style="margin-left: 40px;"> (i) In Exhibit J for permits related to wetlands. (ii) In Exhibit O for permits related to water rights. </div>	E.3	
(D) For federally-delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.	E.4	
(E) If the applicant relies on a state or local government permit or approval issued to a third party, identification of any such third-party permit and for each: <div style="margin-left: 40px;"> (i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit. (ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit. (iii) An assessment of the impact of the proposed facility on any permits that a third party has obtained and on which the applicant relies to comply </div>	E.5	

Rule Sections	Section	✓
with any applicable Council standard.		
<p>(F) If the applicant relies on a federally-delegated permit issued to a third party, identification of any such third-party permit and for each:</p> <p>(i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit.</p> <p>(ii) Evidence that the responsible agency has received a permit application.</p> <p>(iii) The estimated the date when the responsible agency will complete its review and issue a permit decision.</p>	NA	
(G) The applicant's proposed monitoring program, if any, for compliance with permit conditions.	E.7	

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APPENDICES

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E.1 INTRODUCTION

Obsidian Solar Center LLC (Applicant) proposes to construct the Obsidian Solar Center (Facility) in Lake County, Oregon, with an alternating current generating capacity of up to 400 megawatts. Please refer to Exhibit B for Facility layout information and Exhibit C for Facility location information.

Exhibit E provides information about the permits needed to construct and operate the Facility, as required by Oregon Administrative Rules (OAR) 345-021-0010(1)(e): *Information about permits needed for construction and operation of the facility.*

As described in Exhibit B, this Application for Site Certificate (ASC) analyzes the potential impacts from two design scenarios: a stand-alone photovoltaic (PV) solar power generation build-out, and a PV solar power generation plus battery storage build-out. This exhibit addresses the PV plus storage design scenario because it will likely require the greatest number of permits during construction and operation.

Executive Summary

This exhibit describes that Applicant or qualified third parties will obtain all required permits for construction and operation of the Facility. Applicant does not propose any specific conditions of approval pertaining to permits for the Site Certificate.

E.2 IDENTIFICATION AND DESCRIPTION OF REQUIRED PERMITS

OAR 345-021-0010(1)(e)(A) *Identification of all federal, state and local government permits related to the siting of the proposed facility, a legal citation of the statute, rule or ordinance governing each permit, and the name, mailing address, email address and telephone number of the agency or office responsible for each permit.*

OAR 345-021-0010(1)(e)(B) *A description of each permit, the reasons the permit is needed for construction or operation of the facility and the applicant's analysis of whether the permit should or should not be included in and governed by the site certificate.*

Response: The subsections below identify the federal, state, and local government permits required for construction and operation of the Facility. In addition, the subsections provide information for each permit, including a legal citation of the statute, rule, or ordinance governing each permit; agency contact information; the reasons the permit is needed; and, where applicable, Applicant's analysis of whether the permit should or should not be included in and governed by the Site Certificate.

Certain permits are not under Energy Facility Siting Council (EFSC) jurisdiction and therefore are not governed by the Site Certificate. In general, permits issued by federal agencies or permits that have been federally delegated to the State of Oregon regulatory agency (e.g., the Oregon Department of Environmental Quality [DEQ]) are not governed by the Site Certificate. Permits that are not related to the siting of the Facility are also not governed by the Site Certificate. Permits that will be obtained by a third party contractor are typically not governed by the Site Certificate but are addressed in this ASC; specifically, Section E.5 addresses state and local permits that will be acquired by a third-party contractor, and Section E.6 addresses federal permits that will be issued to a third party.

E.2.1 Federal Permits

Permit: Clean Water Act Section 404 Permit

Agency: U.S. Army Corps of Engineers (USACE)

Standards: Clean Water Act Section 40433 U.S. Code (U.S.C.) 1344

Response: A Clean Water Act Section 404 permit is needed for impacts on waters of the U.S. by construction of the Facility. Applicant has concluded that there are no waters of the U.S. within the site boundary and therefore the Facility will not impact federal jurisdictional waters. Applicant will submit a request for concurrence to the USACE to confirm this conclusion. However, to the extent that the USACE disagrees, Applicant will either avoid all impacts or pursue a Section 404 permit. Nonetheless, this approval would not fall under EFSC jurisdiction because the USACE is a federal government agency. Therefore, this permit should not be included in and governed by the Site Certificate.

Permit: Determination of No Hazard to Air Navigation

Agency: Federal Aviation Administration
Northwest Mountain Region
1601 Lind Avenue Southwest
Renton, WA 98057
(425) 227-2001

Standards: Federal Aviation Act of 1958 (49 U.S.C. Section 44718)
14 Code of Regulations Section 77

Response: This determination is required for construction or alterations that may affect navigable airspace, including solar facilities that may produce glare. Applicant submitted to Federal Aviation Administration (FAA) on July 19, 2018, a Notice of Proposed Construction or Alteration (Form 7640-1) to request a Determination of No Hazard to Navigations (refer to Appendix E-1). The FAA requires Form 7640-1 to be filed at least 60 days prior to construction. Within five days after construction has reached its greatest

Standards: Clean Water Act, Section 401 (33 U.S.C. 1341)
OAR Chapter 340, Division 49

Response: Section 401 of the Clean Water Act requires a Water Quality Certification if a federal permit is needed (e.g., Section 404 permit) for discharge to water of the U.S. by construction of the Facility. The USACE has delegated authority to the DEQ. As described above under the Section 404 Permit, Applicant asserts that there are no waters of the U.S. within the site boundary and therefore the Facility will not impact federal jurisdictional waters. Applicant does not anticipate needing a Section 401 water quality certification, but even if it does, DEQ has a pre-certified USACE Nationwide Permit 12. Further, this permit does not fall under EFSC jurisdiction because USACE is a federal government agency that delegated authority to DEQ to issue the 401 water certification program. Therefore, this permit should not be included in and governed by the Site Certificate.

E.2.3 State Permits

Permit: **Energy Facility Site Certificate**

Agency: Energy Facility Siting Council
Attn: Todd Cornett
Oregon Department of Energy
550 Capitol Street NE, First Floor
Salem, OR 97301
(503) 378-4040

Standards: ORS 469.300 et seq., 469.501, 469.503, and 469.504;
OAR 345-001; 345-021; 345-022; 345-024; 345-026-0048; and 345-027-0020, 0023, and 0028

Response: The Facility qualifies under EFSC jurisdiction because it is a solar PV power generation facility that will use more than 320 acres on any land, per ORS 469.300(11)(D)(iii). The information contained in this ASC describes how Applicant meets the applicable EFSC siting standards.

Permit: **Archaeological Permit**

Agency: Oregon Parks and Recreation Department
State Historic Preservation Office
Attention: John Pouley, Assistant State Archaeologist
725 Summer Street NE, Suite C
Salem, OR 97301
john.pouley@oregon.gov
(503) 986-0675

Standards: ORS Chapters 97, 358, and 390; and Chapter 736, Division 51

Response: This state permit is required in order to disturb archaeological sites or archaeological objects on privately owned land. Applicant presumes that portions of the Facility identified in Exhibit S contain an “archaeological site” or “archaeological object,” as those terms are defined by ORS 358.920(1)(a) and (c), and therefore includes this permit in the ASC. The Site Certificate will govern this permit.

Permit: **Removal/Fill Permit**

Agency: Oregon Department of State Lands (DSL)

Standards: ORS 196.795-.990
OAR Chapter 141 Division 85

Response: This permit is required for any removal, fill, or alteration of material equal to or more than 50 cubic yards within jurisdictional waters of the state per OAR 141-085-0520(2) and (5). Applicant identified waters of the state within the site boundary; however, Applicant will not exceed 50 cubic yards of fill and therefore will be below the DSL permitting threshold. To the extent that Applicant cannot avoid or minimize impacts to remain below the DSL permitting threshold, Applicant will pursue a Removal/Fill Permit Application via the EFSC process. If triggered, the Site Certificate would govern this permit.

Permit: **Water Right Permit, Water Use Authorization, or Limited License**

Agency: Oregon Water Resources Department
725 Summer Street NE, Suite A
Salem, OR 97301
(503) 378-8455

Standards: ORS 573.505-.795, ORS 537.545, and ORS 537.992
OAR Chapter 690 Divisions 310, 340, 410, and 507

Response: Applicant is not required to obtain a water right permit. Applicant will rely on the statutory exemption to use groundwater for any single industrial or commercial purpose in an amount not exceeding 5,000 gallons per day (ORS 537.545(1)(f)). Applicant will purchase additional water from an approved, licensed source.

Permit: **General Water Pollution Control Facility Permit (WPCF-1700-B):
Washwater Discharge from Equipment Cleaning**

Agency: Oregon Department of Environmental Quality

Attn: Jackie Ray
Eastern Region
700 SE Emigrant, Suite 330
Pendleton, OR 97801
Ray.jackie@deq.state.or.us
(541) 278-4605

The Bend Administrative Office
475 NE Bellevue Drive, Suite 110
Bend, OR 97701
(541) 388-6146

Standards: OAR 340, Division 71
OAR 340, Division 45
ORS Chapter 468B

Response: This permit is required for washwater produced from equipment-cleaning activities during operation—specifically, solar panel washing—that would result in the discharge of washwater by means of evaporation, seepage, or irrigation. As described below in Section E.5, a third-party contractor will obtain this permit from DEQ. Therefore, this permit should not be included in and governed by the Site Certificate.

Permit: Onsite Sewage Disposal Construction Installation Permit

Agency: Oregon Department of Environmental Quality
Water Quality Onsite Program
Eastern Region
Attn: Bob Marshall
800 SE Emigrant Ave., Suite #300
Pendleton, OR 97801
Marshall.Bob@deq.state.or.us
(541) 276-4063

Standards: ORS Chapters 454 and 468B
OAR Chapter 340, Division 71

Response: The operations and maintenance building may have on-site sewage disposal systems. DEQ has delegated authority to Lake County to issue on-site septic system permits. As described in Section E.5, a third-party contractor will obtain this permit from DEQ to the extent that one is necessary for the operations and maintenance building.

Permit: Oversize Load Movement Permit/Load Registration

Agency: Oregon Department of Transportation
Motor Carrier Transportation Division
550 Capitol Street NE
Salem, OR 97301
(503) 378-6699

Standards: OAR Chapter 734, Division 51

Response: This permit may be required for transportation of oversize loads over interstate, state, and county highways. As described in Section E.5, a third-party contractor will obtain this permit from DEQ, if it is needed. If needed, it will be obtained at a later date based on the final Facility design. Therefore, it should not be governed by the Site Certificate. In addition, this permit is not related to Facility siting. At this time, it is not known whether this permit will be required.

E.2.4 Local Permits

Permit: Conditional Use Permit

Agency: Lake County Planning Department
Darwin Johnson Jr.
513 Center Street
Lakeview, OR 97630
djohnson@co.lake.or.us
(541) 947-6036

Standards: Lake County Zoning Ordinance:

Article 3: Agricultural Use Zone: A-2, Sections 3.04(B)(6); 3.05
Article 20: Supplementary Provisions, Sections 20.01, 20.02, 20.03, 20.05, 20.08, 20.09, 20.10, 20.12, 20.13
Article 21: Off-Street Parking and Loading Requirements, Sections 21.01, 21.02, 21.04, 21.05
Article 24: Conditional Uses, Sections 24.01, 24.04, 24.16, 24.18, 24.19

Response: A conditional use permit is required in order to construct the Facility because it will be located in an area zoned as A-2 (Agriculture Use Zone) by Lake County. Applicant requests that EFSC determine compliance with the substantive criteria of all affected local governments' comprehensive plans and land use ordinances (per ORS 469.504[1][b]). Following issuance of the Site Certificate, Applicant will obtain a conditional use permit from Lake County pursuant to ORS 469.401(3).

Permit: Lake County Right-of-Way Permit

Agency: Lake County Road Department
95574 Highway 140 West
P.O. Box 908
Lakeview, OR 97630
(541) 947-6048

Standards: Lake County Ordinance / Board of County Commissioners Approval

Response: This permit is required for any use on, to, or through any established county right-of-way due to pole lines, buried cables, pipelines, signs, road approaches, and crossings, among others. This permit is not related to Facility siting; therefore, this permit is not governed by the Site Certificate.

Permit: Structural Building Permit

Agency: Lake County Building Department
513 Center Street
Lakeview, OR 97630
(541) 947-6032
Fax: (541) 947-2144

Standards: 2014 Oregon Structural Specialty Code

Response: This permit is required for any building that includes operations and maintenance buildings and for battery storage structures to the extent the battery storage is located inside the structure. The Lake County Building Permit applies the state code when reviewing local permits. This permit is not related to Facility siting and, therefore, this permit is not governed by the Site Certificate.

Permit: Onsite Sewage Disposal System Permit

Agency: Lake County Building Department
513 Center Street
Lakeview, OR 97630
(541) 947-6032
Fax: (541) 947-2144

Standards: ORS Chapter 454 and 468B
OAR Chapter 340, Division 71
Agreement with DEQ

Response: Approval from Lake County is needed before an on-site sewage disposal system can be installed. The proposed operations and maintenance building may need sewage disposal systems for operations personnel. This permit should not be included in or governed by the Site Certificate.

E.3 COMPLIANCE WITH STATUTES, RULES, AND STANDARDS

OAR 345-021-0010(1)(e)(C) *For any state or local government agency permits, licenses or certificates that are proposed to be included in and governed by the site certificate, evidence to support findings by the Council that construction and operation of the proposed facility will*

comply with the statutes, rules and standards applicable to the permit. The applicant may show this evidence:

(i) In Exhibit J for permits related to wetlands.

Response: Applicant will remain below the 50-cubic-yard permitting threshold for a Removal/Fill Permit. Refer to Exhibit J. To the extent that Applicant cannot avoid impacts or exceeds the DSL permitting threshold, Applicant will obtain a Removal/Fill Permit from EFSC.

(ii) In Exhibit O for permits related to water rights.

Response: Applicant will not pursue any permit, license, or certificate for water use during construction or operation. As described in Exhibit O, Applicant may obtain water from an exempt groundwater well under ORS 537.545(1)(f) and expects to purchase water from an approved, licensed source. Oregon law allows exempt industrial and commercial uses up to 5,000 gallons per day from wells without a water rights permit (ORS 537.545(1)(f)).

(iii) In Exhibit S for permits related to archeological resources

Response: Applicant will pursue an archeological permit to disturb archeological sites during construction, pursuant to ORS Chapter 97, 358, and 390; and Chapter 736, Division 51. Applicant seeks approval of the archeological permit from EFSC. Refer to Exhibit S for a full discussion and findings to support issuance of this permit.

E.4 FEDERALLY DELEGATED PERMIT APPLICATIONS

OAR 345-021-0010(1)(e)(D) *For federally-delegated permit applications, evidence that the responsible agency has received a permit application and the estimated date when the responsible agency will complete its review and issue a permit decision.*

Response: Applicant will file a NPDES 1200-C Construction Stormwater Permit application with DEQ in August 2018. A draft NPDES 1200-C permit application is included as Appendix I-1 of Exhibit I.

E.5 STATE AND LOCAL PERMITS ISSUED TO A THIRD PARTY

OAR 345-021-0010(1)(e)(E) *If the applicant relies on a state or local government permit or approval issued to a third party, identification of any such third-party permit and for each: (i) Evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit. (ii) Evidence that the third party has, or has a reasonable likelihood of obtaining, the necessary permit. (iii) An assessment of the impact of the proposed facility on any permits that a*

third party has obtained and on which the applicant relies to comply with any applicable Council standard.

Response: As discussed in Section E.2, there are certain state permits that will be obtained by Applicant's qualified third-party contractor, Swinerton Builders. Because these permits will be obtained by a third party, Applicant requests that they not be included in and governed by the Site Certificate.

As discussed in Exhibit D, Applicant has selected Swinerton Builders as its engineering, procurement, and construction contractor. Swinerton Builders will be responsible for obtaining the required third-party permits. These types of permits are common permits required for renewable energy project construction, and Swinerton Builders is experienced with and capable of obtaining the applicable permits.

State and local permits that will be acquired by a third-party contractor are discussed below.

E.5.1 Water Pollution Control Facility Permit 1700-B

The Water Pollution Control Facility Permit (WPCF-1700-B) is required for washwater produced from equipment-cleaning activities during construction and operation, including solar panel washing, that would result in the discharge of washwater by means of evaporation, seepage, or irrigation.

E.5.2 Onsite Sewage Disposal Construction-Installation Permit

The Onsite Sewage Disposal Construction-Installation Permit may be required for the operations and maintenance building, which may include bathrooms for use by operational employees. The third-party contractor will be familiar with this permitting process and will obtain this permit from the Lake County Building Department, which has been delegated authority from DEQ to issue these permits locally.

E.5.3 Oversize Load Movement Permit/Load Registration

The Oversize Load Movement Permit/Load Registration permit is required for movement of large/overweight equipment across state roads. Applicant anticipates that this permit may be needed to deliver equipment to the site for construction. If needed, this permit will be obtained by Applicant's third-party contractor. This permit will not be governed by the Site Certificate because it will be obtained at a later date when more design information is available.

E.6 FEDERAL PERMITS ISSUED TO A THIRD PARTY

OAR 345-021-0010(1)(e)(F) *If the applicant relies on a federally-delegated permit issued to a third party, identification of any such third-party permit and for each: (i) Evidence that the*

applicant has, or has a reasonable likelihood of entering into, a contract or other agreement with the third party for access to the resource or service to be secured by that permit. (ii) Evidence that the responsible agency has received a permit application. (iii) The estimated the date when the responsible agency will complete its review and issue a permit decision.

Response: Applicant is not relying on a third-party contractor to obtain federal permits for the Facility.

E.7 PERMIT COMPLIANCE MONITORING PROGRAM

OAR 345-021-0010(1)(e)(G) *The applicant's proposed monitoring program, if any, for compliance with permit conditions.*

Response: Applicant will comply with all Site Certificate conditions of approval. In addition, Applicant will abide by the requirements within Facility monitoring plans that are related to the Site Certificate. These plans include the Wildlife and Habitat Measures, Mitigation, and Monitoring Plan (refer to Appendix P-2 of Exhibit P), the Revegetation and Noxious Weed Control Plan (refer to Appendix P-3 of Exhibit P), and the Cultural Resources Inadvertent Discovery Plan (refer to Exhibit S). Applicant will fulfill the monitoring requirements described in Facility permits, including, but not limited to, the NPDES 1200-C Construction Stormwater Permit requirements for erosion control monitoring.

Appendix E-1

FAA Documentation



Notice Criteria Tool

[Notice Criteria Tool - Desk Reference Guide V_2014.2.0](#)

The requirements for filing with the Federal Aviation Administration for proposed structures vary based on a number of factors: height, proximity to an airport, location, and frequencies emitted from the structure, etc. For more details, please reference [CFR Title 14 Part 77.9](#).

You must file with the FAA at least 45 days prior to construction if:

- your structure will exceed 200ft above ground level
- your structure will be in proximity to an airport and will exceed the slope ratio
- your structure involves construction of a traverseway (i.e. highway, railroad, waterway etc...) and once adjusted upward with the appropriate vertical distance would exceed a standard of 77.9(a) or (b)
- your structure will emit frequencies, and does not meet the conditions of the [FAA Co-location Policy](#)
- your structure will be in an instrument approach area and might exceed part 77 Subpart C
- your proposed structure will be in proximity to a navigation facility and may impact the assurance of navigation signal reception
- your structure will be on an airport or heliport
- filing has been requested by the FAA

If you require additional information regarding the filing requirements for your structure, please identify and contact the appropriate FAA representative using the [Air Traffic Areas of Responsibility map](#) for Off Airport construction, or contact the [FAA Airports Region / District Office](#) for On Airport construction.

The tool below will assist in applying Part 77 Notice Criteria.

Latitude:	<input type="text" value="43"/> Deg <input type="text" value="18"/> M <input type="text" value="42"/> S <input type="text" value="N"/> ▼
Longitude:	<input type="text" value="120"/> Deg <input type="text" value="52"/> M <input type="text" value="33"/> S <input type="text" value="W"/> ▼
Horizontal Datum:	<input type="text" value="NAD83"/> ▼
Site Elevation (SE):	<input type="text" value="4317"/> (nearest foot)
Structure Height :	<input type="text" value="40"/> (nearest foot)
Traverseway:	<input type="text" value="No Traverseway"/> ▼ (Additional height is added to certain structures under 77.9(c)) User can increase the default height adjustment for Traverseway, Private Roadway and Waterway
Is structure on airport:	<input checked="" type="radio"/> No <input type="radio"/> Yes

Results

You do not exceed Notice Criteria.

