

Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Oxford Room
Oxford Inn Suites
1050 N. First Street
Hermiston, OR 97838

November 17-18, 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 tonight's hearing
 - For those in person there are comment cards at the table near the entrance
 - For those on the webinar, please use the "Raise Your Hand" feature in Webex
 - For those on the telephone, press *3 to raise your hand

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

November 17, 2022

- Council Meeting Minutes
 - September 27, 2022
 - October 28, 2022
- Council Secretary Report

Compliance Updates

Facility	Inspection Date	Inspection Type	Findings and/or Comments
Mist Underground Natural Gas Storage	9/21/2022	Annual - Desk	Permanent wetland mitigation at Port Westward (for timberland impacts) has failed. NWN stated that they are looking at shifting to a different mitigation area with similar mitigation characteristics to the original impacted area, and that they are actively looking at properties.
Klamath Cogeneration Project	10/5/2022	Annual – In-person	1)100 hour heat rate calculations - the Department requires that the certificate holder provide documentation to support the inclusion of measurement uncertainty in the calculations, or to cease including it. 2)KCP states that they are unable to use HRSG blowdown as cooling tower makeup water because of the treatment chemicals used. The language for this condition came directly from the applicant’s original application.
Mist Underground Natural Gas Storage	11/2/2022	Requested Site Inspection	This inspection was conducted in response to a request by a citizen who was concerned that Mist may be disposing of wastewater at an injection well operated by a third party (Enerfin) whose DEQ permit had expired. The Department found no evidence of a violation by the certificate holder.

2023 Proposed Meeting Dates

Month	Dates
January	19-20
February	23-24
March	23-24
April	20-21
May	18-19
June	22-23
July	20-21
August	24-25
September	21-22
October	19-20
November	16-17
December	14-15

Agenda Item B (Information Item and Hearing)

West End Solar Project, Public Hearing on Draft Proposed Order on Application for Site Certificate

November 17, 2022

Kellen Tardaewether, Senior Siting Analyst, ODOE

Alison Green Webster, Senior Administrative Law Judge, Oregon Office of Administrative Hearings

West End Solar Project: Public Hearing Overview

1. Proposed Facility Overview: Department overview of siting process, proposed facility components and location.
2. Public Hearing Overview: Hearing Officer explains the legal requirements for providing comments on the record and will facilitate the hearing.
3. Public Hearing:
 - a. The applicant will be provided an opportunity to provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.
 - b. Members of the public will be provided an opportunity to comment on the Draft Proposed Order and/or the application.
 - c. Council will be provided an opportunity to make comments about any concerns they have related to the Draft Proposed Order and/or the application.
 - d. The applicant will be provided an opportunity to respond to any comments; may request that the presiding officer extend the record.

Energy Facility Siting Council (EFSC) Review



- Consolidated review and oversight of most large-scale energy facilities and infrastructure in Oregon

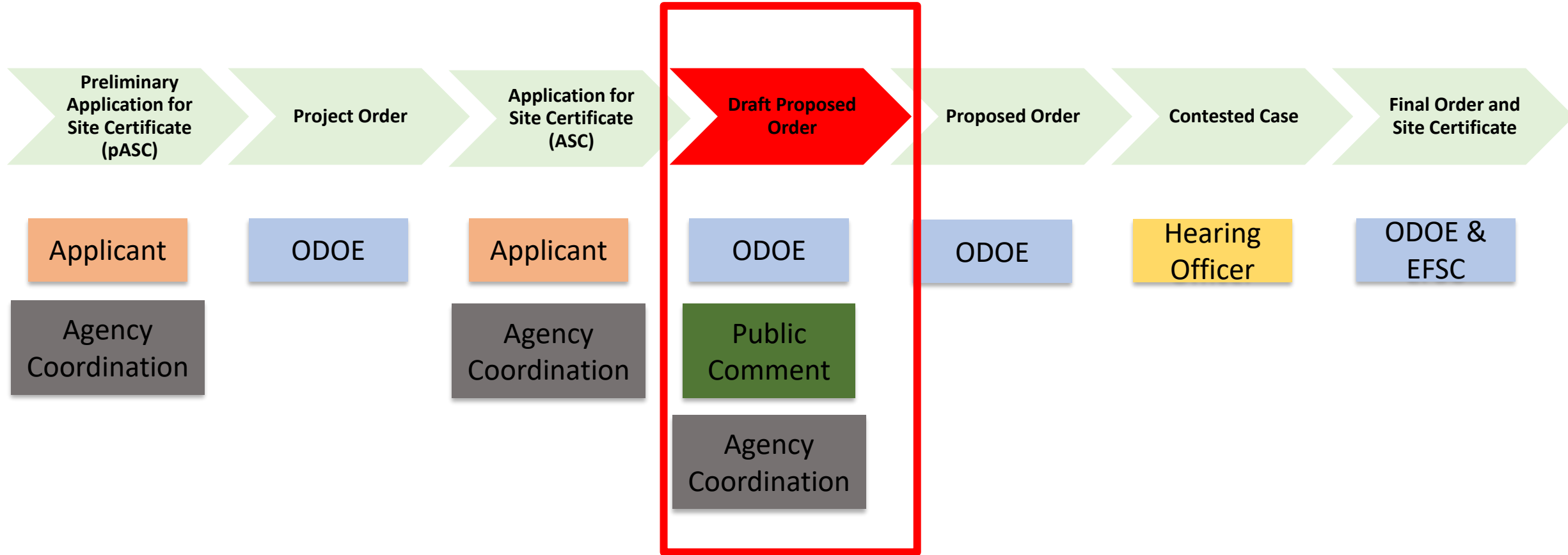


- 7 Members of EFSC
 - Governor appointed, Senate confirmed – Volunteers from around the State



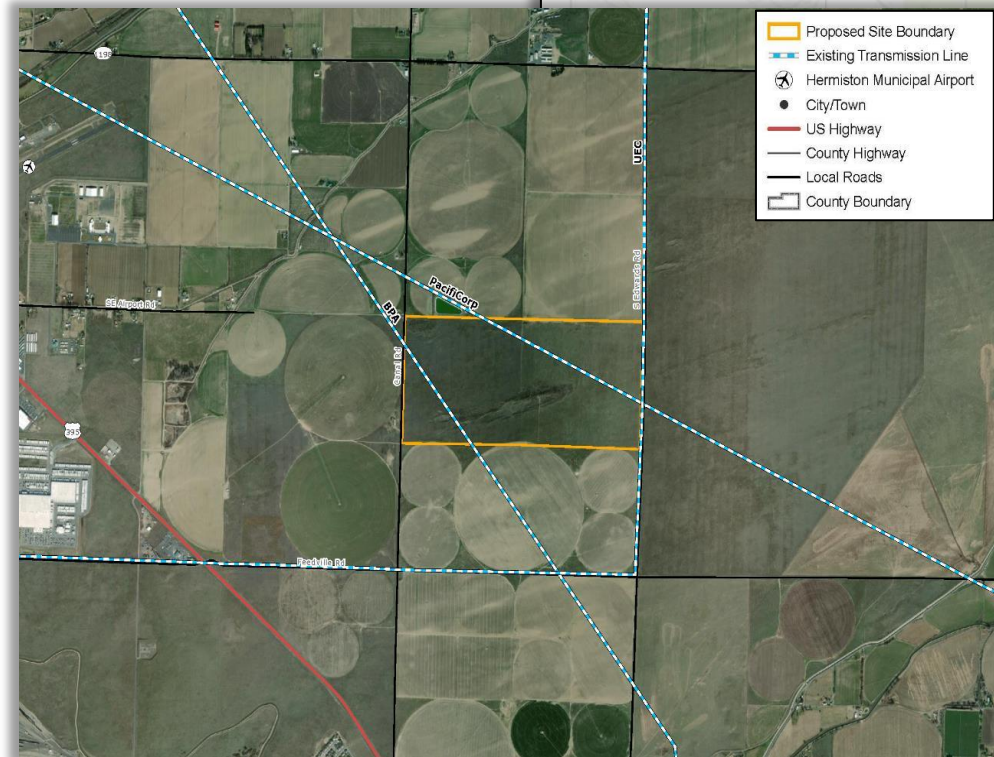
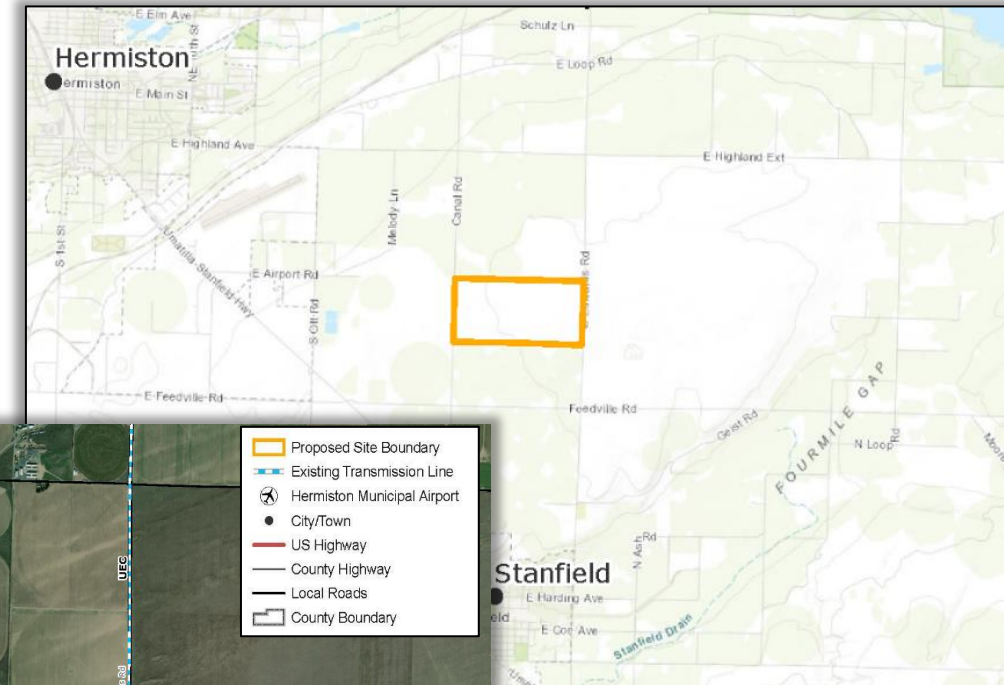
- ODOE's Siting Division is staff to EFSC

Energy Facility Siting Process: Expedited Review



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.



Procedural History

Milestone	Responsible Party	Date
Request for Expedited Review for Small Capacity Facilities and Department Approval	Applicant/ODOE	December 4, and December 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
EFSC Review of DPO	EFSC	TBD (November 18, 2022)

Public Participation at DPO Phase

- The issuance of the DPO notice initiates the opportunity for public comment on the proposed facility;
- Notice opens comment period and provides details on public hearing;
- The public may submit comments by:
 - Mail, email, public comment portal, hand-delivery, or fax during the comment period;
 - Providing oral or written comments at the in-person, webinar/call-in DPO public hearing.



Public Participation at DPO Phase (cont'd)

- Persons commenting on DPO during the comment timeframe are eligible to be considered for party status in the contested case proceeding;
 - The Council will not accept comments on the application or on the DPO after the close of the record on November 17, 2022;
- For consideration in the contested case, issues raised must be raised with sufficient specificity so that the Council, the Department, and the applicant understand the issue raised and are afforded an opportunity to respond to the issue;
- To raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.

Public Participation at DPO Phase (cont'd)

Effective Comments

- Referencing specific Council siting standards and OAR's. Providing specific information supporting whether or not a standard has been met;
- Stating supporting facts in comments & attaching reference materials;
- Referencing specific pages or sections of the application (ASC) or DPO.

Less Effective

- Only stating support or opposition to a proposed facility;
- Only providing a copy of a report without presenting any analysis or facts related to compliance with a standard;
- Raising issues outside of EFSC's jurisdiction;
- Making unsubstantiated statements.

Agenda Item B (Hearing)

West End Solar Project, Public Hearing on Draft Proposed Order on Application for Site Certificate (Hearing)

November 17, 2022

EFSC Appointed Hearing Officer:

Alison Green Webster, Senior Administrative Law Judge, Oregon Office of Administrative Hearings

West End Solar Project: Public Hearing

A person who intends to raise any issue that may be the basis for a contested case must raise the issue:

- ➔ in person at the hearing or in a written comment submitted to the Department of Energy before the deadline stated in the notice of the public hearing (**Today, November 17, 2022**).
- ➔ with sufficient specificity to afford the Council, the Department of Energy and the applicant an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.

ORAR 345-015-0220 (5)(a) and (b)



West End Solar Project: Public Hearing

Consideration of Issues in a Contested Case

To raise an issue in a contested case proceeding, the issue must be:

- within the jurisdiction of the Council;
- raised in person or in writing before the deadline stated in the notice of the public hearing; and
- raised with sufficient specificity to afford the Council, the Department of Energy, and the applicant an adequate opportunity to respond.

To raise an issue with sufficient specificity, a person must present facts that support the person's position on the issue.

West End Solar Project: Public Hearing Testimony

Prior to Testifying, state the following:

- Full name with spelling
- Name of organization or group if you are representing one
- Title if you are representing an organization or group
- Physical mail or email address if you wish to receive notice of the Proposed Order which includes a description of how to submit a petition to participate in the contested case

Please Note: If you do not wish to provide your mailing or email address in this format, you may email it to the Department at kellen.tardaewether@energy.oregon.gov or call the following number and provide the information, including spelling, in a voicemail: 503-586-6551.



West End Solar Project: Public Hearing

Applicant

The applicant may provide/present on anything in the Draft Proposed Order and/or may submit additional information/evidence to supplement the record.

Presiding Officer or Council Members may ask clarifying questions.

West End Solar Project: Public Hearing

Public

Members of the public may comment on the Draft Proposed Order and/or the application.

Presiding Officer or Council Members may ask clarifying questions.

How to Raise Your Hand in Webex:

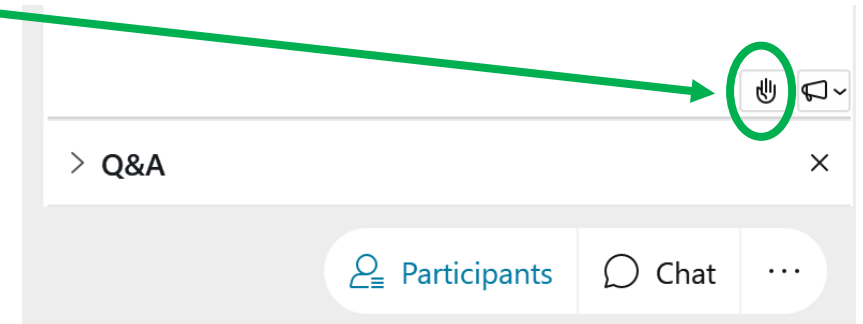
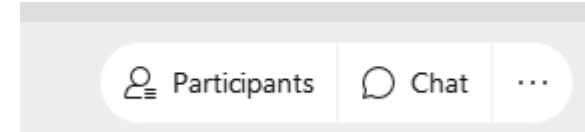
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West End Solar Project: Public Hearing

Council

Council may comment about any concerns they have related to the Draft Proposed Order and/or the application.

West End Solar Project: Public Hearing

Applicant's Response to Comments

The applicant may respond to any comments by:

- Providing oral response
- Submitting additional information/evidence to supplement the record
- Requesting that the Presiding Officer extend the record to submit additional information/evidence to supplement the record

West End Solar Project: Public Hearing

Close of the Public Hearing

Recess



Oregon Department of **ENERGY**

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Agenda Item C (Action Item)

Biennial Fee Update

November 18, 2022

Sisily Fleming, ODOE Fiscal Analyst

Biennial Fee Update

ORS 469.441(1)

- Council shall update the schedule of fees not later than January 1 of each odd-numbered year
- The schedule of fees shall be designed to recover the council's actual costs
- Fees shall be based on actual, historical costs incurred by the council and department to the extent historical costs are available.
- Fees shall reflect the size and complexity of the project

Biennial Fee Update

ORS 469.421(2)

- If the cost of evaluation exceeds the required fee, the Department will invoice for additional costs
- If the cost of evaluation is less than the required fee, the Department will refund the balance on hand (or allocate to the next phase, upon request from the applicant)

Biennial Fee Update

NOTICE OF INTENT (NOI)		Proposed 1/1/23	Explanation of Change
OPTION A: Customized NOI Approach (Applies to all Facility Types)			
Initial Filing Fee	\$5,000	\$6,000	Increased for inflation (11%)
Custom NOI Fee (Based on Cost Estimate)	not less than \$42K	not less than \$42K	Increased for consistency with lowest fee amount
OPTION B: Standard NOI Approach			
Natural Gas Fired Generation	\$60,000	\$67,000	Increased for inflation (11%)
BioFuels	\$71,000	\$79,000	Increased for inflation (11%)
Electrical Transmission	\$137,000	\$152,000	Increased for inflation (11%)
Pipeline Transmission	\$137,000	\$152,000	Increased for inflation (11%)
Wind, Solar, Geothermal, & All Other Generation	\$42,000	\$42,000	Used average actual costs for NOI's submitted in past 2 years and increased for inflation (11%)
EXPEDITED REVIEW		Proposed 1/1/23	Explanation of Change
Determination of Qualification for Expedited Review	\$15,000	\$10,000	Used average actual costs for NOI's submitted in past 2 years and increased for inflation (11%)
OTHER TYPES OF REQUESTS		Proposed 1/1/23	Explanation of Change
All Requests for Exemption	\$10,000	\$25,000	Used average of fee and actual cost to determine increase.
Request for Pipeline under ORS 469.405 (3)	\$3,000	No Change	Inflation increase did not result in a change (amounts are rounded to the nearest thousandth)

Council Decision on Fee Update

Option 1 – Staff Recommendation

Approve 2023-2024
Schedule of Fees as
recommended by staff

Option 2

Approve 2023-2024
Schedule of Fees as
recommended by staff with
specific changes

Council Deliberation

Agenda Item D (Action Item)

Appointment of Rules Coordinator

November 18, 2022

Sarah Esterson, ODOE Senior Policy Advisor

ORS 183.330(2)

Each state agency that adopts rules shall appoint a rules coordinator and file a copy of that appointment with the Secretary of State. The rules coordinator shall:

- (a) Maintain copies of all rules adopted by the agency;
- (b) Provide to the public, upon request, information pertaining to:
 - (A) All rulemaking proceedings of the agency;
 - (B) The status of the agency's rules; and
 - (C) All certificates and rules filed by the agency with the Secretary of State; and

Council Decision on Appointment of Rulemaking Coordinator

Option 1 – Staff Recommendation

Appoint Tom Jackman as Rules Coordinator and Christopher Clark and Sarah Esterson as back up Rules Coordinators

Option 2

Deny the appointment of Tom Jackman as Rules Coordinator and Christopher Clark and Sarah Esterson as back up Rules Coordinators

Council Deliberation

Agenda Item E (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 Nolin Hills Proposed Order
- The Boardman to Hemingway Transmission Line Project
- The Protected Areas, Scenic Resources, and Recreation Resources Standards Rulemaking

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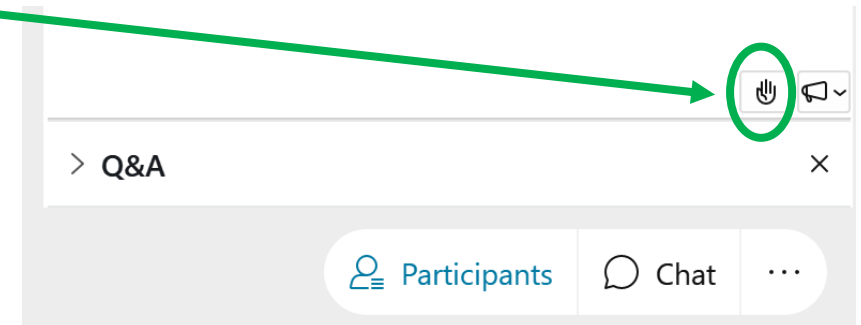
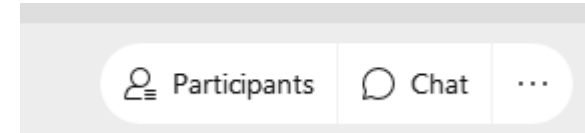
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Agenda Item F (Information Item)

Case Law Overview

November 17-18, 2022

Patrick Rowe, DOJ Senior Assistant Attorney General

Interpreting Oregon Statutes

Patrick Rowe

Oregon Department of Justice

November 2022 EFSC Meeting

State v. Gaines

346 Or. 160
(2009)

- Defendant was arrested and held in a county jail. When first arrested she was uncooperative, turning her head to the side when officers attempted to photograph her.
- While incarcerated, she verbally refused (3x) to go back to the booking room to be photographed when ordered to do so.
- Rather than forcibly convey her to the booking room, the Corrections Sergeant charged her with obstructing governmental or judicial administration.

The Statute at Issue: ORS 162.235(1)

Under [ORS 162.235\(1\)](#), a person commits the offense of obstructing governmental or judicial administration if he or she “intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function **by means of intimidation, force, physical or economic interference or obstacle.**”

The issue presented was whether defendant's **refusal to cooperate** was a “**means of * * * physical * * * interference or obstacle**” within the meaning of the statute.

Goal: Determine Legislative Intent

- (1)(a) In the construction of a statute, a court shall pursue the intention of the legislature if possible.

Or. Rev. Stat. Ann. § 174.020



Steps in the analysis

Text of the statute

Context

Legislative History

Last resort: statutory maxims

Step 1 – Consider the text of the statute

- In the construction of a statute, the office of the judge is simply to ascertain and declare what is, in terms or in substance, contained therein, **not to insert what has been omitted, or to omit what has been inserted**; and where there are several provisions or particulars such construction is, if possible, to be adopted as will give effect to all.

Or. Rev. Stat. Ann. § 174.010

Ordinary Meaning

If the legislature defines a term, then that's what it means.

Where no definition - in the absence of evidence to the contrary, courts will assume the legislature intended that words mean what they ordinarily mean.

Oregon courts often look to *Webster's Third New International Dictionary* to determine the “ordinary meaning” of a term.



ORS
162.235(1)

- A person commits the offense of obstructing governmental or judicial administration if he or she “intentionally obstructs, impairs or hinders the administration of law or other governmental or judicial function **by means of intimidation, force, physical or economic interference or obstacle.**”

Step 2:
Consider the
context of the
statute

- Statutory context includes:
 - other provisions of the same statute
 - other statutes covering the same or a related subject
 - prior versions of the same statute

Context - two other statutes

ORS 162.247(1)(b): prohibits “**[i]nterfering with a peace officer**” and provides, in part, “A person commits the crime of interfering with a peace officer or parole and probation officer if the person, knowing that another person is a peace officer * * * [r]efuses to obey a lawful order by the peace officer * * *

ORS 162.315(1): prohibits “**[r]esisting arrest,**” and provides, in part, “A person commits the crime of resisting arrest if the person intentionally resists a person known by the person to be a peace officer or parole and probation officer in making an arrest.”

Both statutes include an exception for “passive resistance”; i.e., provide that passive resistance does not violate the statute.

Step 3: Legislative history

- (b) To assist a court in its construction of a statute, a party may offer the legislative history of the statute.

Or. Rev. Stat. Ann. § 174.020(1)

Legislative History

- The record of a bill's progress from introduction to enactment.
 - Comments of legislators in committee hearings and work sessions
 - Statements of Legislators in Floor Debates
 - Testimony of Nonlegislator Witnesses
 - Statements of Committee Counsel (e.g.,summary of a bill)
 - Amendment History

Statutory Maxims

- Usually judicially created, based on courts' assumptions about what the legislature would prefer. Examples:
 - Unreasonable results
 - Avoidance

Steps

Text of the statute

Context

Legislative History

Last resort: statutory maxims

“Goodbye...? Oh no, please,
can't we go back to page one
and do it all over again?” —
Winnie The Pooh



Agenda Item G (Information Item)

2023 Legislative Session Preview

November 17-18, 2022

Christy Splitt, ODOE Government Relations Coordinator

2023: LEGISLATIVE BIG PICTURE

- New Governor: Tina Kotek
- New Senate President: to be determined
- New(ish) House Speaker: Dan Rayfield
- House Make-Up: to be determined (Democratic majority)
- Senate Make-Up: to be determined (Democratic majority)
- Number of new legislators: 20 (22%)
- Capitol under construction
- Unclear budget picture
- Major issues: housing, homelessness, behavioral health, workforce, I-5 bridge replacement, public defense

2023: ANTICIPATED ENERGY TOPICS

- Siting Reform
- Energy Efficiency in New and Existing Buildings
- Incentive Programs
- Federal Funding and Related Budget Items
- Statewide Energy Planning
- Rural Energy Development

KEY DATES FOR THE 2023 LEGISLATIVE SESSION

Key Dates	
December 7-9	Legislative Committee Meetings
December 21	Deadline to File Agency and Pre-session Bills
January 8	Estimated date – pre-session bills posted online
January 9	Legislature Organizational Day – swearing in, presiding officers
January 17	Session Starts
March 17	First Chamber Posting Deadline
April 4	First Chamber Work Session Deadline
May 5	Second Chamber Posting Deadline
May 19	Second Chamber Work Session Deadline
June 15	Target Last Day of Session
June 25	Constitutional Last Day of Session

BREAK

Agenda Item H (Information Item)

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

November 18, 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.

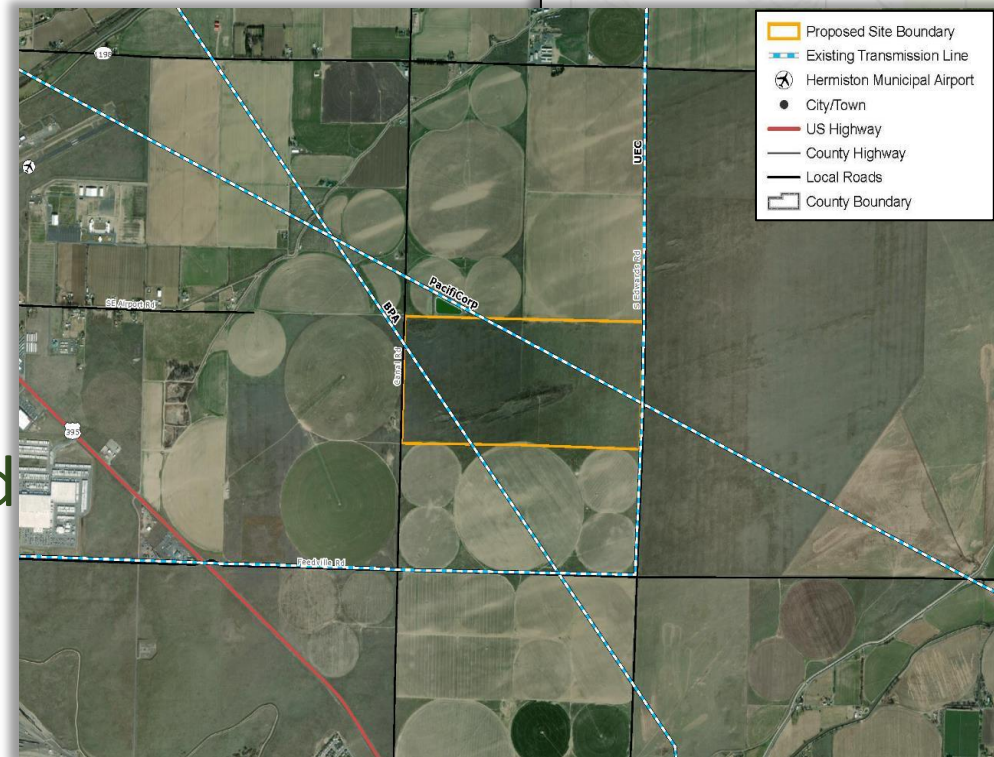
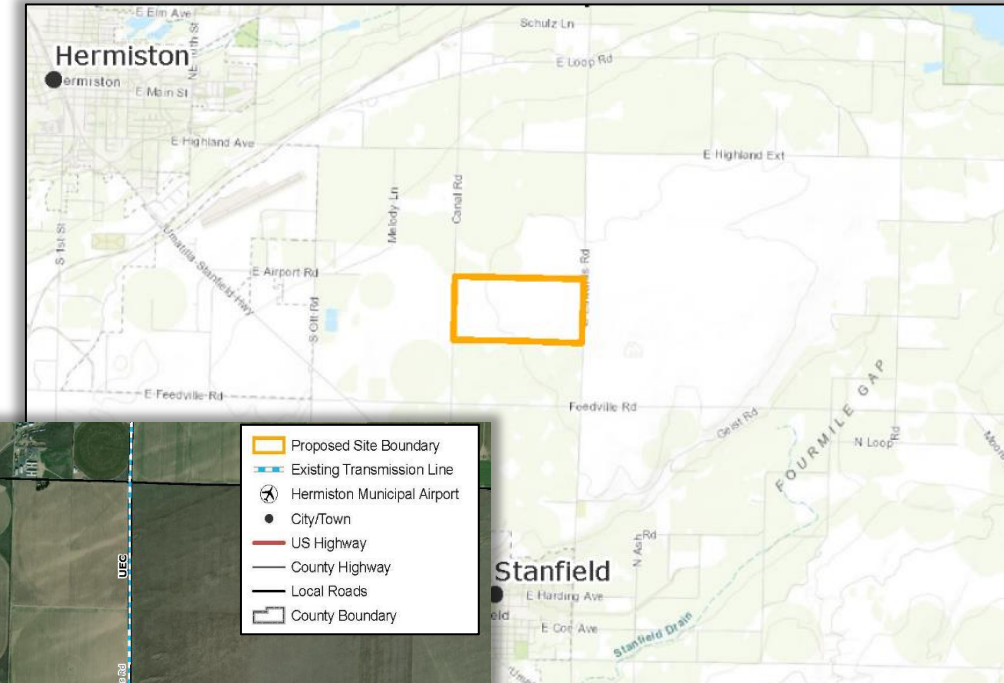
Council Scope of Review

OAR 345-015-0230

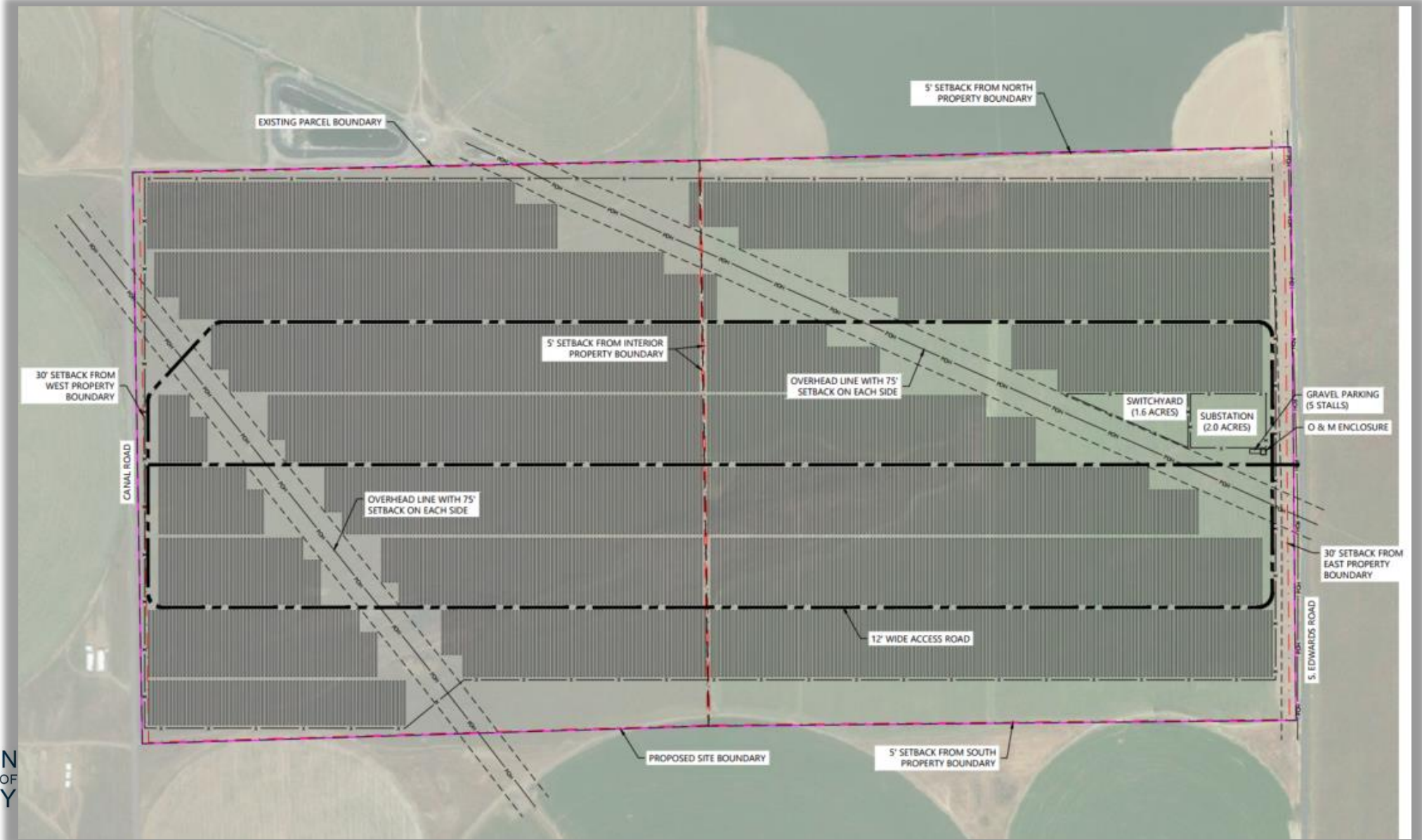
- Review DPO, DPO Comments by issue/standard, applicant's response to issues raised; Department recommendations
- Provide comments for Department consideration in Proposed Order
 - Provide comments individually, consensus, or vote at EFSC meeting
 - Provide comments by issue or standard as staff presents
- 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 December 17 2020
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EFSC Review of DPO	EFSC	TBD (November 18, 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 1, requires the applicant, prior to construction, to submit to the Department a guarantee signed by its parent company guaranteeing payment and performance of the certificate holder's obligations under the site certificate using the form provided in Final Order on ASC Attachment D.

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.

Council Review of DPO/Comments

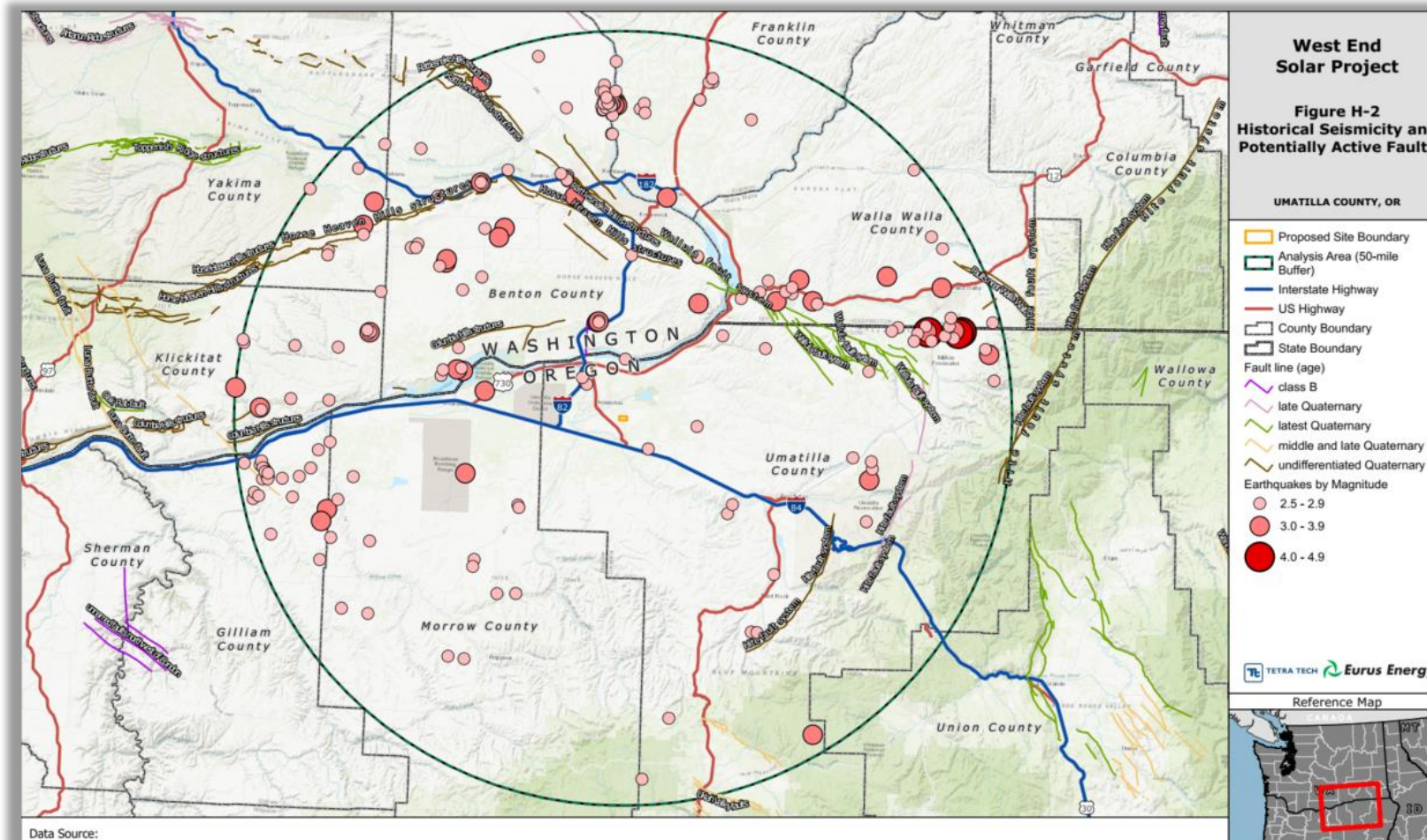
Section IV. C. Structural Standard: OAR 345-022-0020 [DPO Page 32]

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 landslide/slope instability, 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

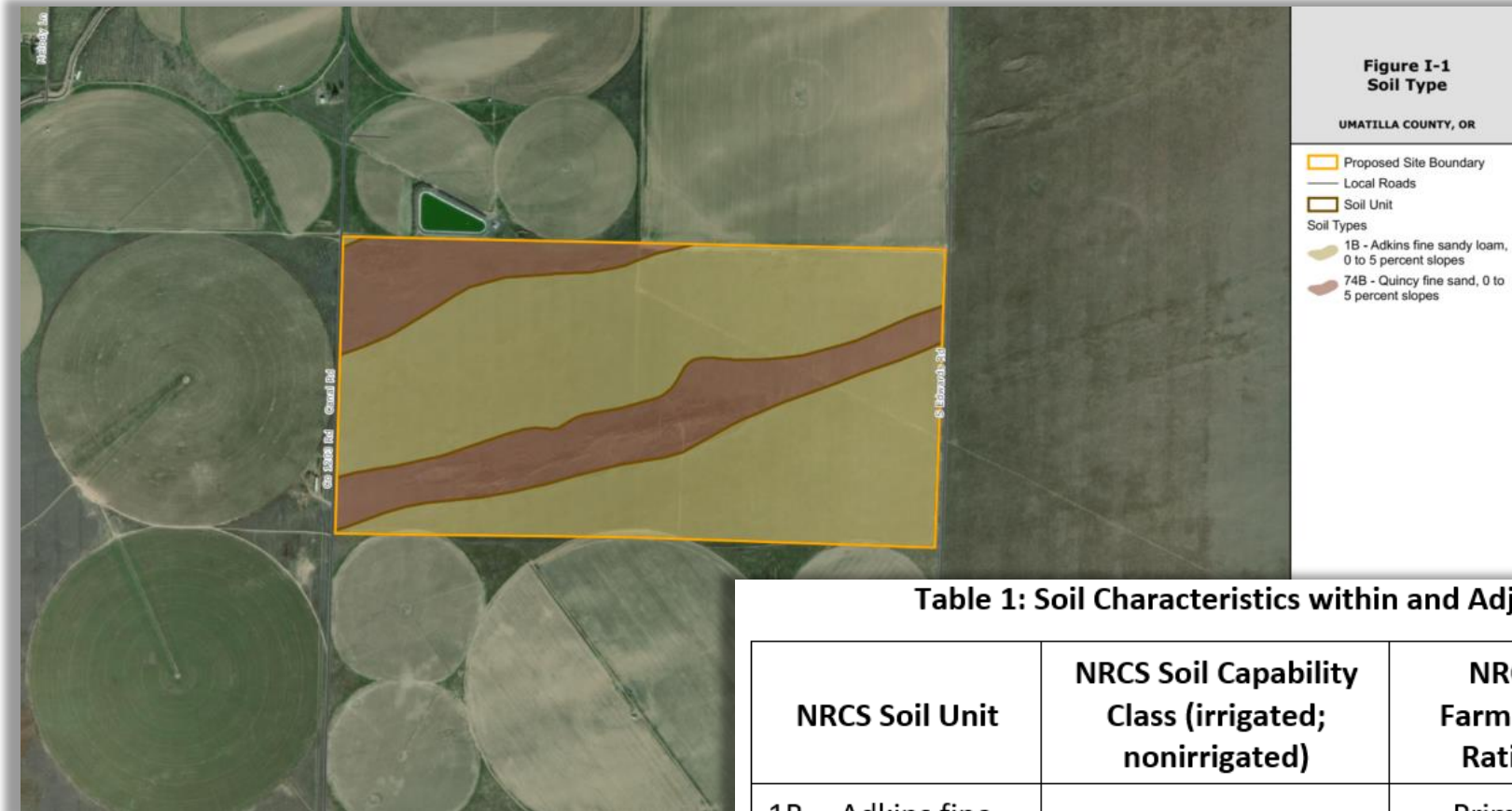


Table 1: Soil Characteristics within and Adjacent to the Proposed Site Boundary

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)

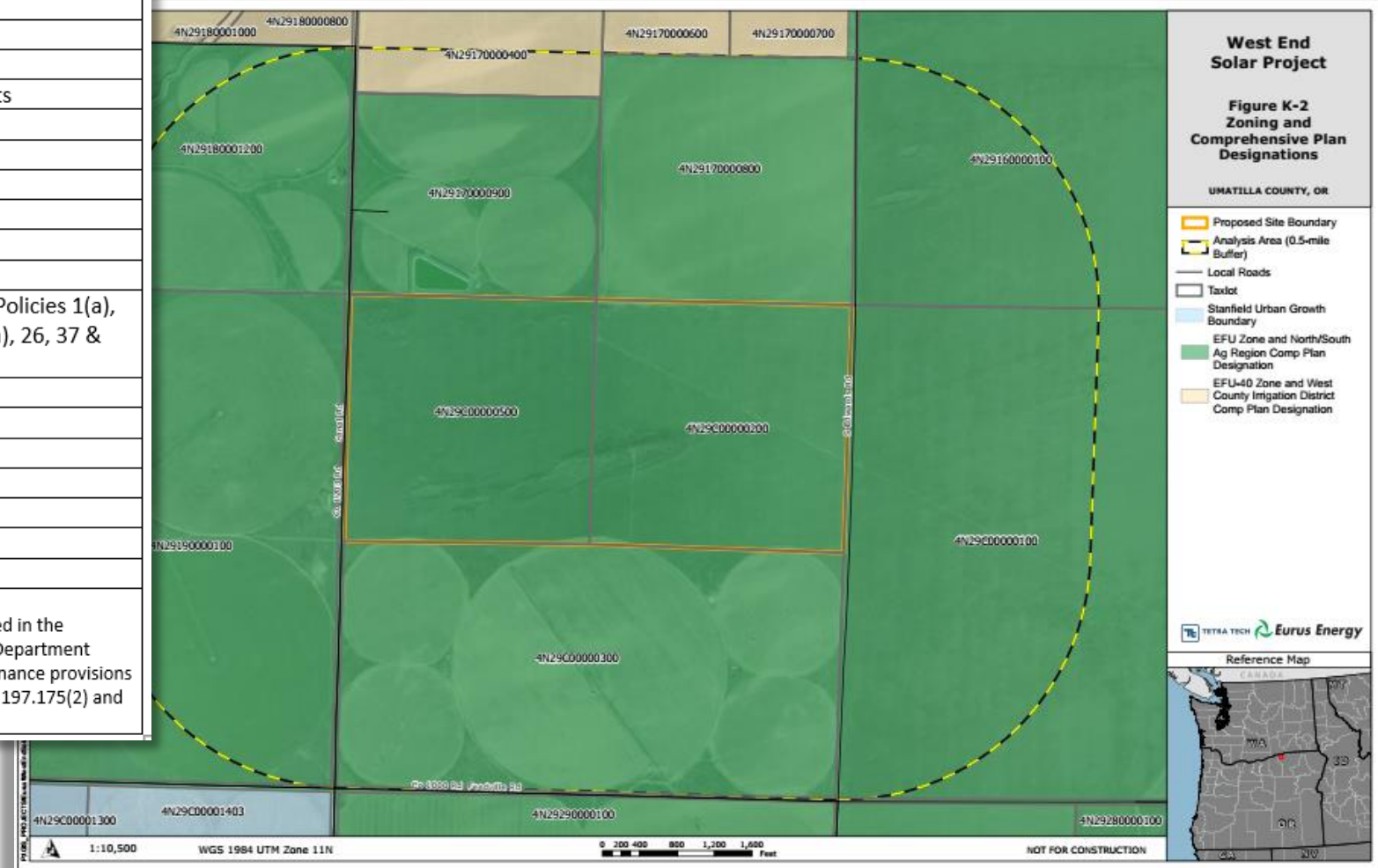
Code Section	Title
Exclusive Farm Use (EFU) Zone Requirements	
§152.025	Zoning Permit
§152.060	Conditional uses permitted
§152.061	Standards for all conditional uses
§152.063	Development standards
§152.010	Access to Buildings, Private Driveways and Easements
§152.011	Vision Clearance
§152.015	Fences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



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

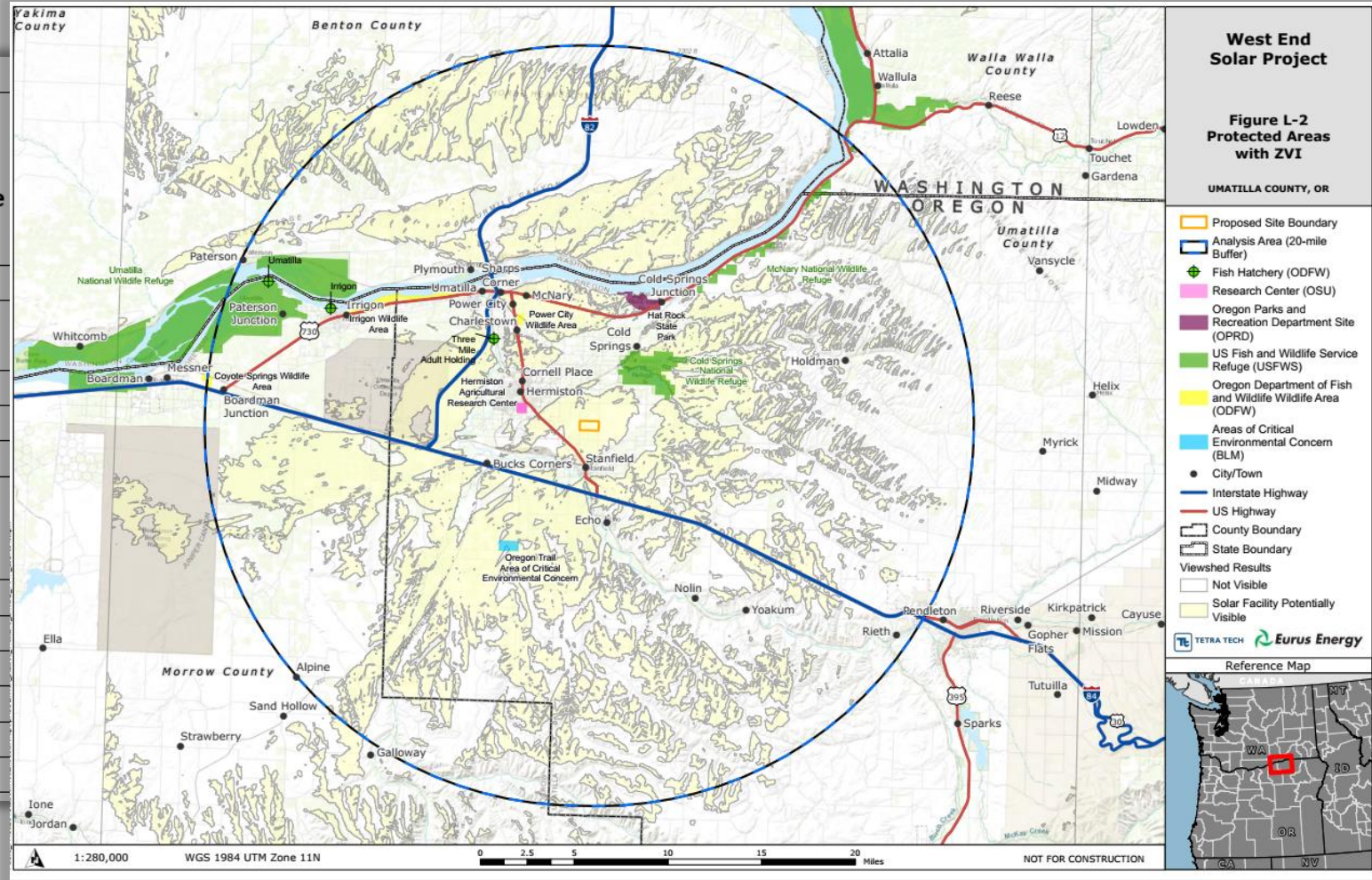
Section IV. F Protected Areas: OAR 345-022-0040 [DPO Page 83]

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.

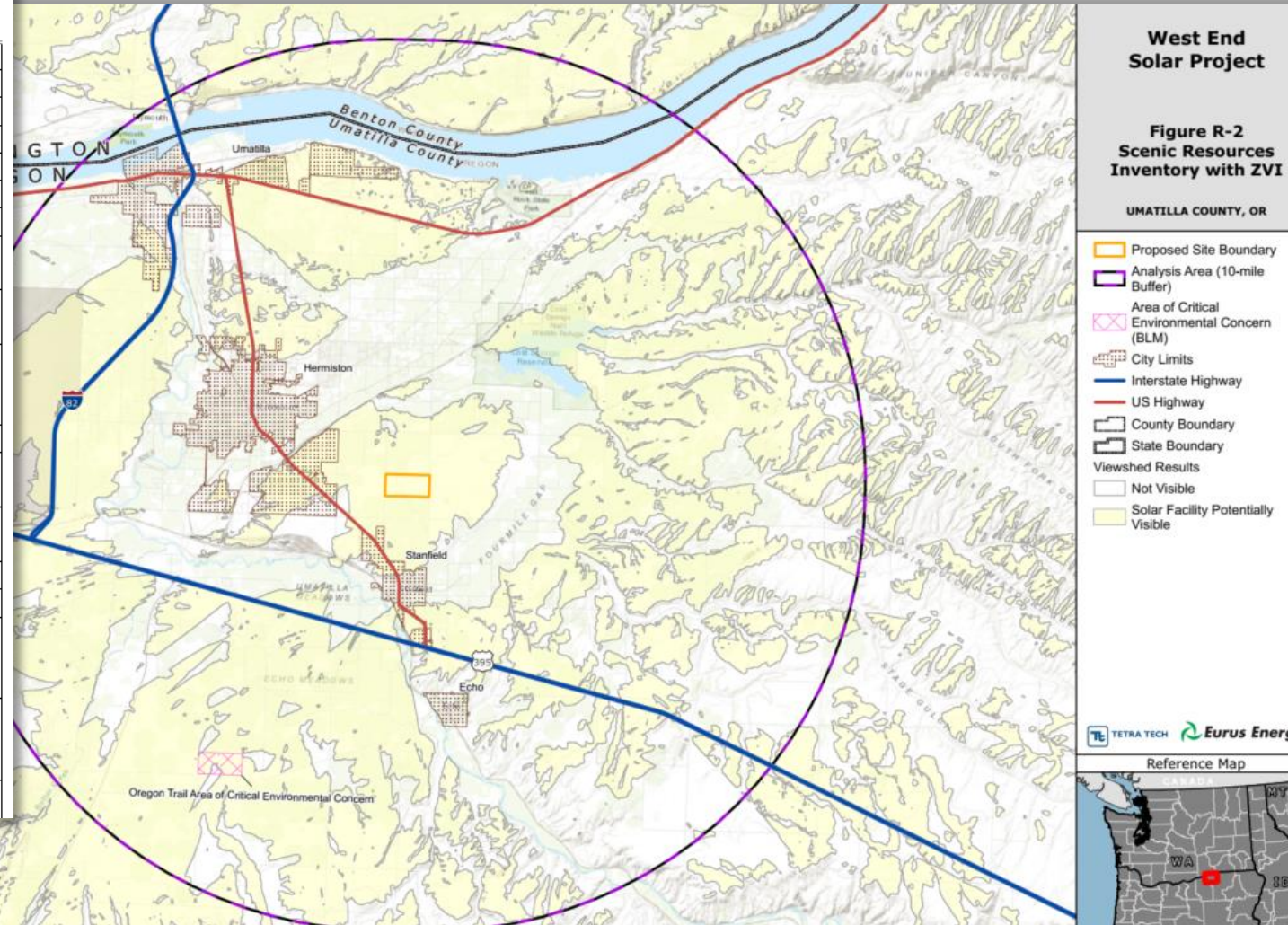
Council Review of DPO/Comments

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.

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

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.



ody Ln., Stanfield, OR. View to the Northeast.

Council Review of DPO/Comments

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

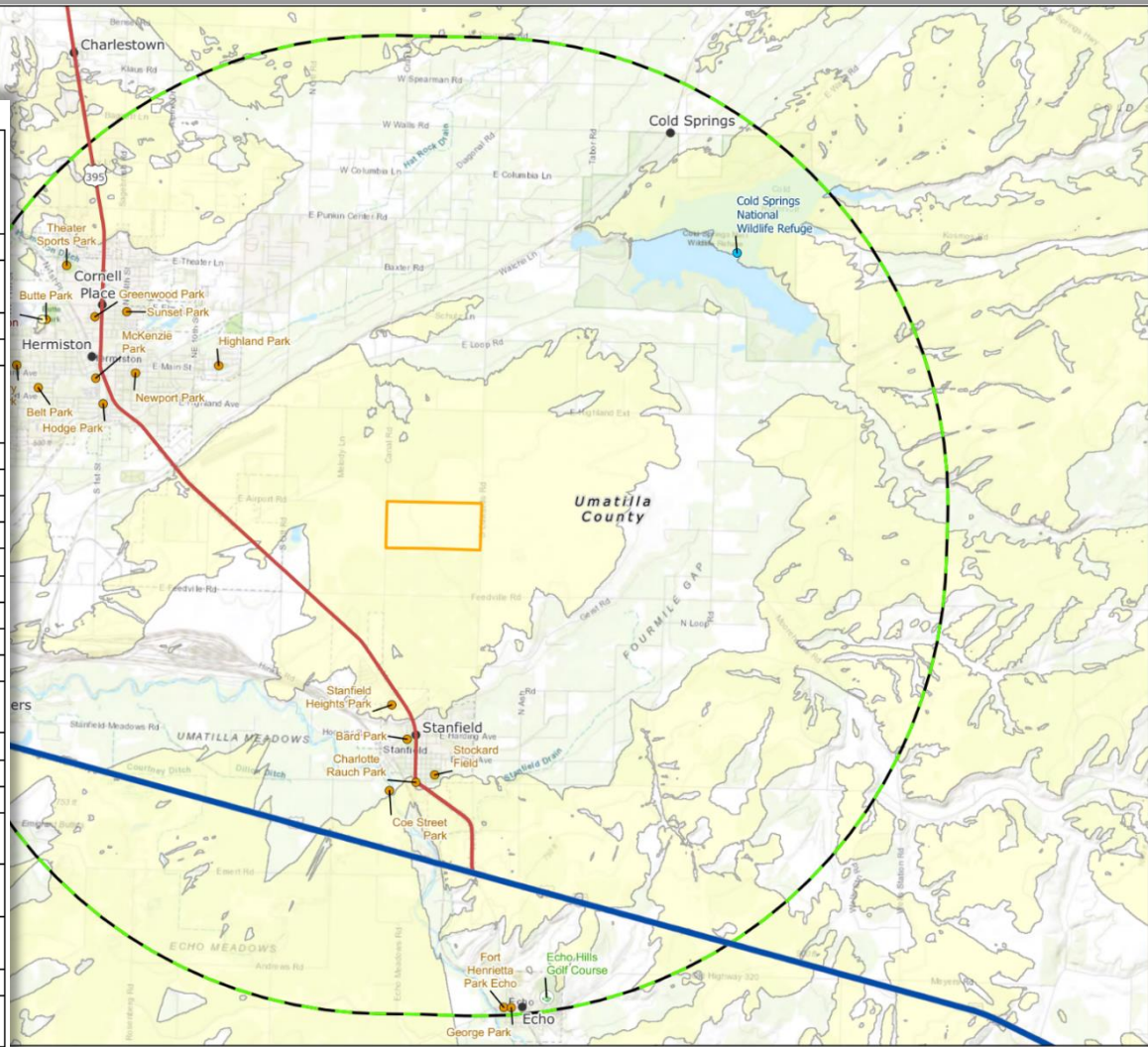
Recreation standard requires the Council to find that the design, construction, and operation of a facility would not likely result in significant adverse impacts to “important” recreational opportunities. Therefore, the Council’s Recreation standard applies only to those recreation areas that the Council 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, appearing to read '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

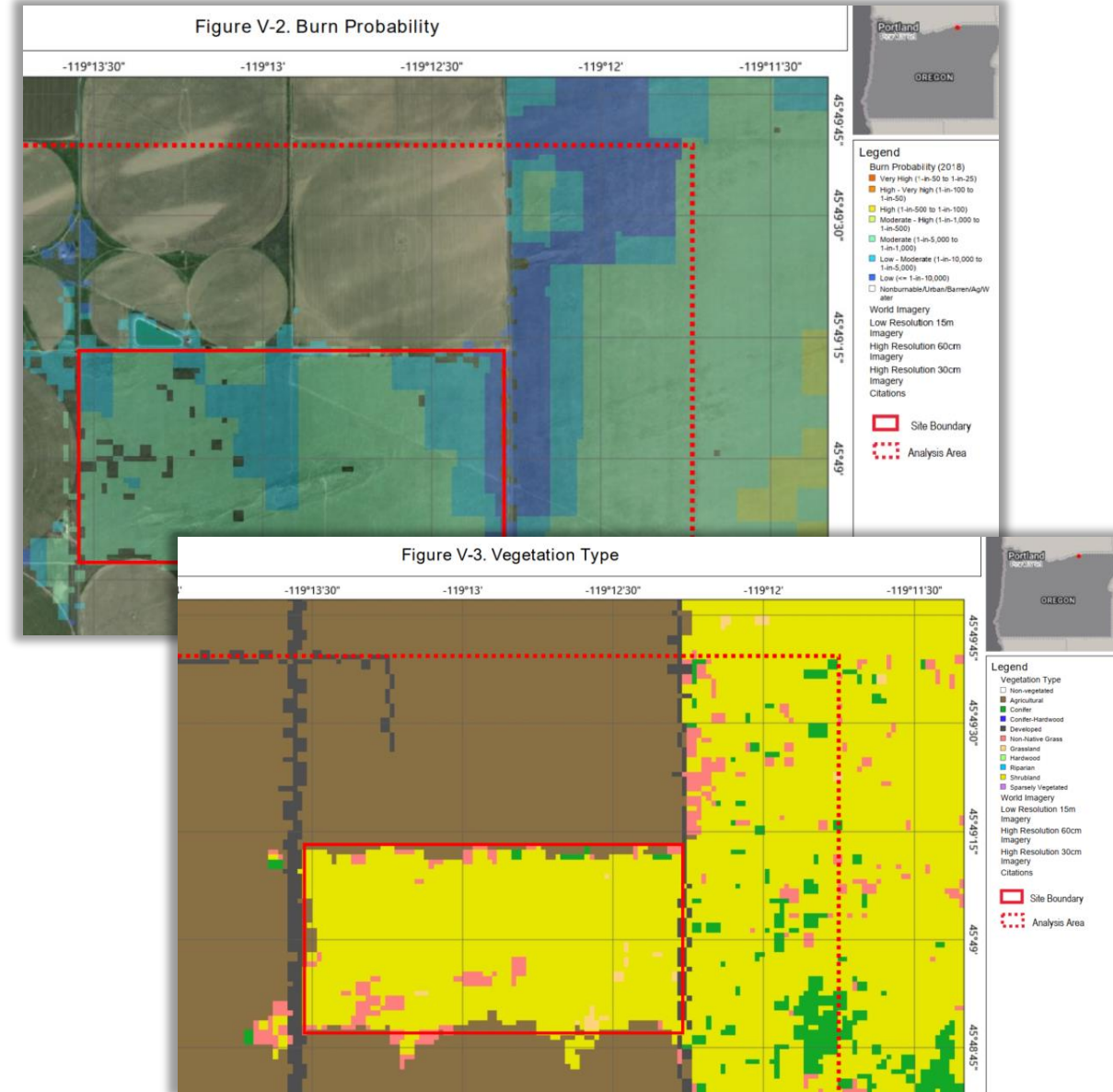
Characterization of Wildfire Risk within Analysis Area

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.

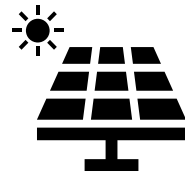
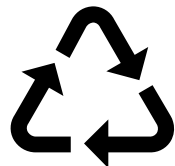
1.2.3.2 Heightened Wildfire Risk Preventive Action

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

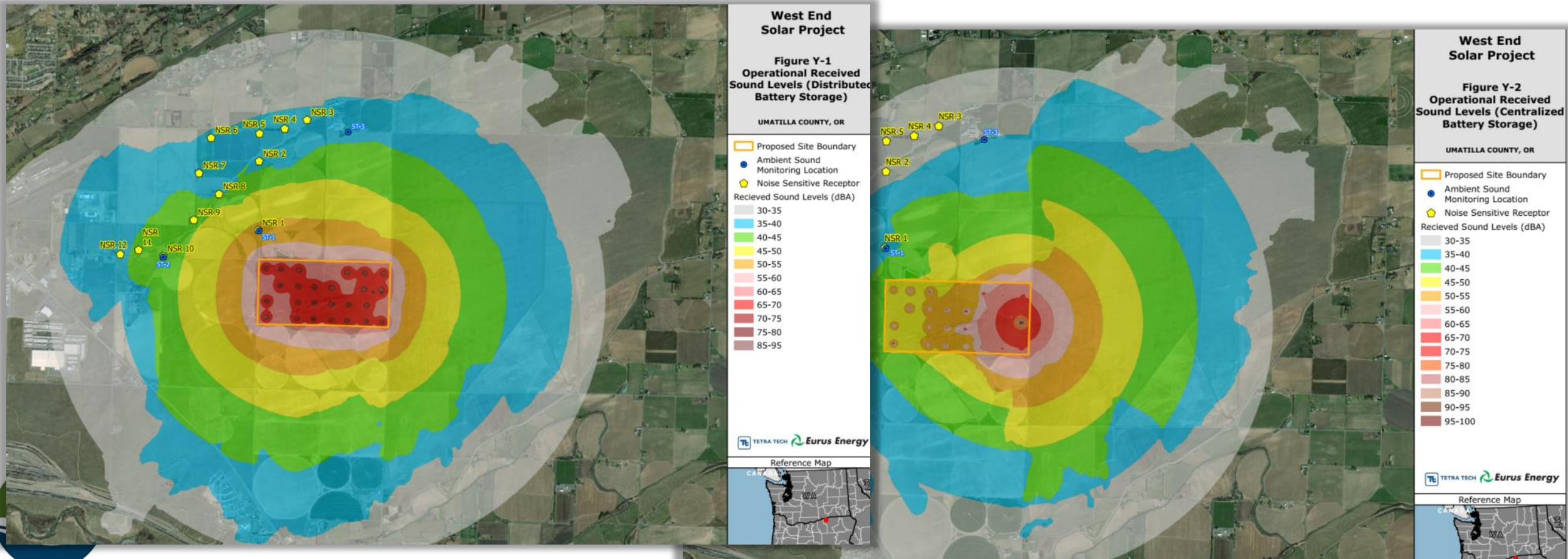
Noise modeling was conducted under two different design or build-out scenarios:

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

BREAK

Adjourn

