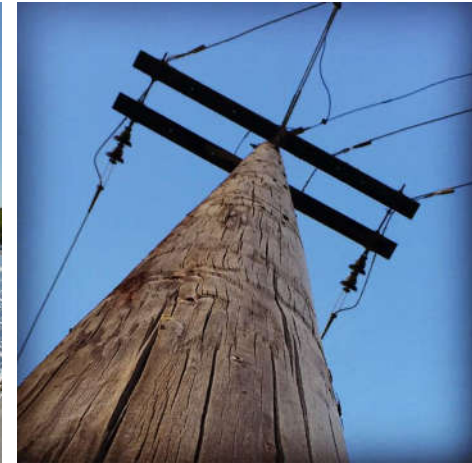


Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Hotel Condon
202 E Main Street
Condon Oregon

January 19-20, 2023



OREGON
DEPARTMENT OF
ENERGY

Opening Items:

- Call to Order
- Roll Call
- Announcements



Announcements:

- Reminder that this meeting is being held in its entirety via teleconference and webinar.
- 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.
- 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.



Announcements continued:

- Please silence your cell phones
- Please use the “Raise Your Hand” feature in Webex to speak during the public comment period, or press *3 to raise your hand if you are participating by telephone.
- 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

January 19, 2023

- December 2022 Council Meeting Minutes
- Council Secretary Report

Agenda Item B (Information Item and Hearing)

Oregon Trail Solar Public Hearing on Draft Proposed Order for Request for Amendment 1 of Site Certificate

January 19, 2023

Informational Presentation – Kathleen Sloan, Senior Siting Analyst, ODOE
Presiding Officer – Marcy Grail, Chair, EFSC



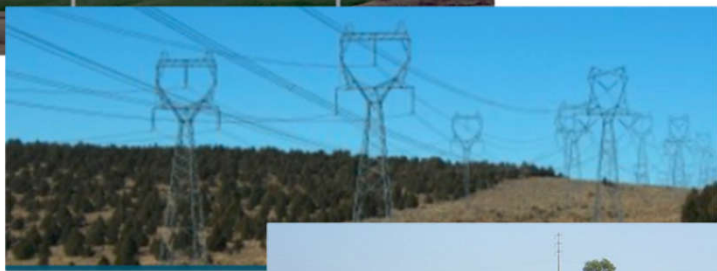
Oregon Trail Solar Request for Amendment 1: Public Hearing on Draft Proposed Order Overview

1. Facility Overview: Department overview of the siting process, approved facility components and location, the amendment request, and Draft Proposed Order.
2. Public Hearing Overview: Presiding Officer will explain the legal requirements for providing comments on the record and will facilitate the hearing.
3. Public Hearing:
 - a. The certificate holder 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 Request for Amendment 1.
 - c. Council will be provided an opportunity to make comments about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 1.
 - d. The certificate holder 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

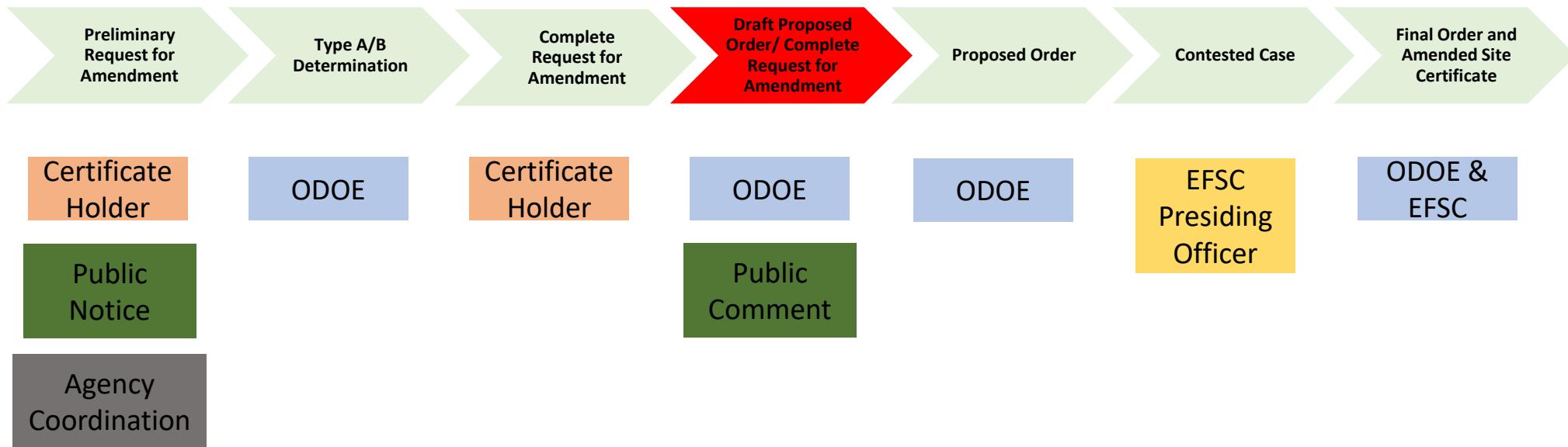


- 7 Members of EFSC
 - Governor appointed, Senate confirmed – Volunteers from around the State



- ODOE's Siting Division is staff to EFSC

Energy Facility Siting Amendment Process



Oregon Trail Solar Facility Overview

Certificate Holder

Oregon Trail Solar, LLC

Parent Company

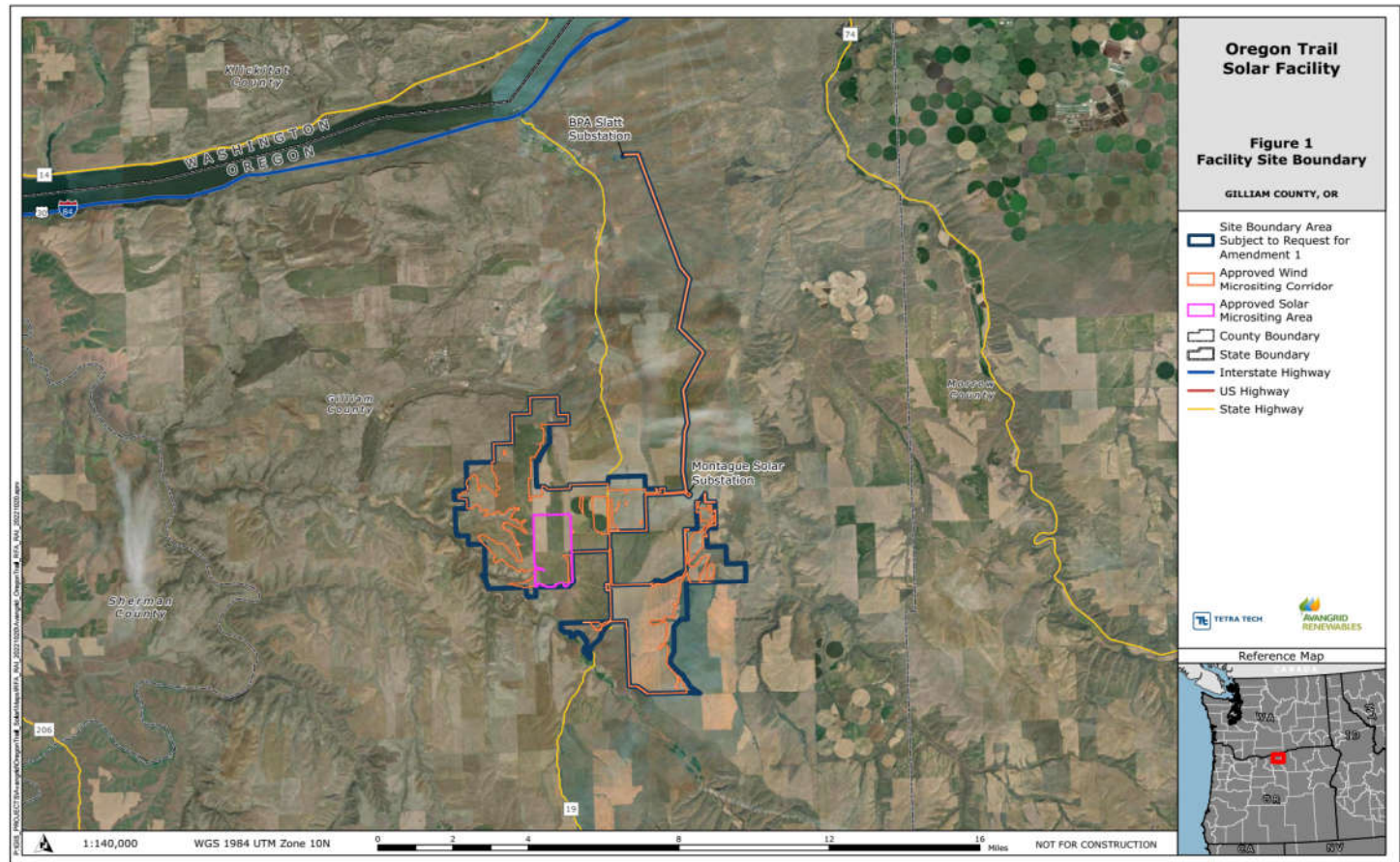
Avangrid Renewables, LLC

Facility Type

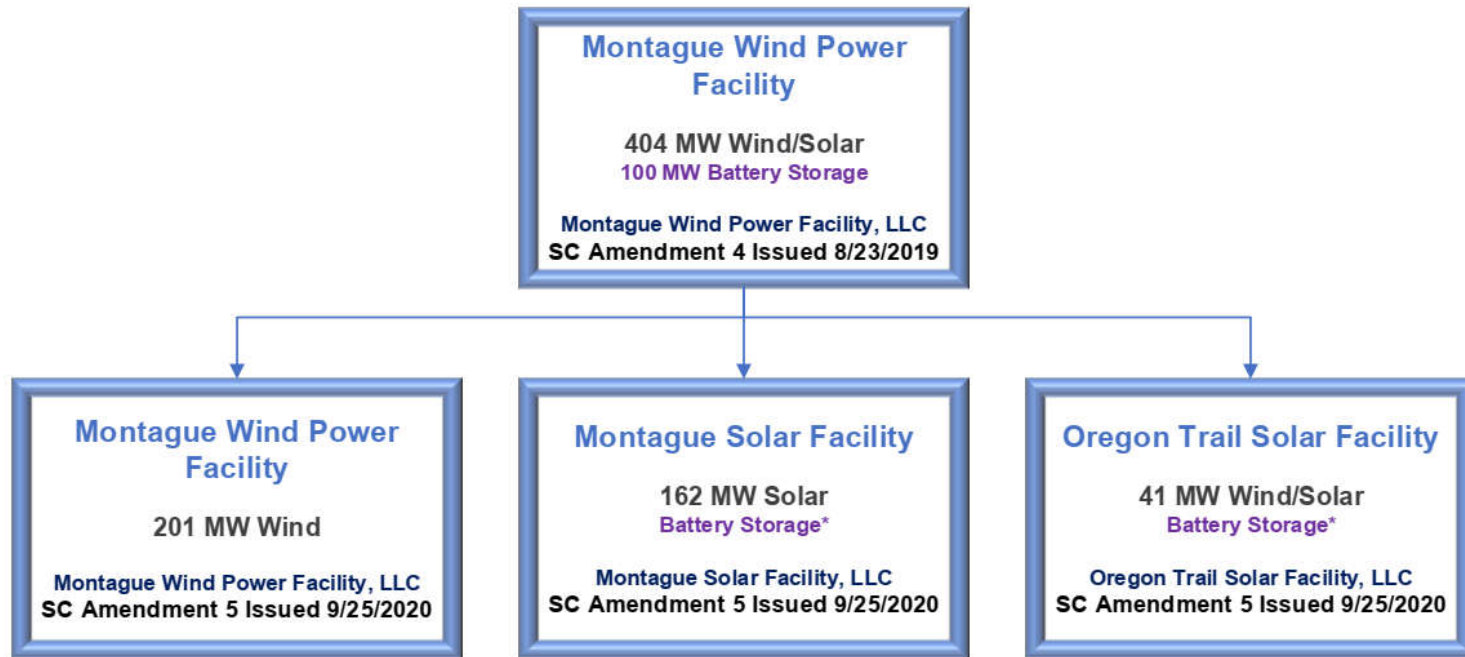
Wind/Solar/Battery

Capacity 41 MW

Site Boundary 13,866 acres



Oregon Trail Solar Facility: Site Certificate History



* Maximum combined Battery Storage for Montague Solar and Oregon Trail Solar not to exceed 100 MW

Site Certificate Issuance
Sept 25, 2020

Oregon Trail Solar Facility: Request for Amendment 1

Request for Amendment 1 (RFA1) seeks approval from EFSC for the following changes:

- **Amend Condition 24 to extend the construction commencement deadline from August 30, 2022 to August 30, 2025.**
- **Revise Condition 50(b) to modify the cultural resources monitoring requirement.**

Oregon Trail Solar RFA1- Scope of Review

- OAR 345-027-0375(2)(a) – Scope of Council’s Review for Time Extension Request

*For a request for amendment to extend the deadlines for beginning or completing construction, **after considering any changes in facts or law (emphasis added)** since the date the current site certificate was executed, the facility complies with all laws and Council standards applicable to an original site certificate application*

Oregon Trail Solar: RFA1 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA1 and Type B Review ADR	Cert Holder	Aug 19, 2022
Type B Review ADR Determination	ODOE	Nov 10, 2022
Complete RFA1	Cert Holder	Dec 19, 2022
Draft Proposed Order	ODOE	Dec 23, 2022
Draft Proposed Order Public Hearing	EFSC	Jan 19, 2023
EFSC Review of DPO and Public Comments*	EFSC	Jan 20, 2023
Proposed Order**	ODOE	TBD
Final Decision	EFSC	TBD



* Pending the close of the record of the DPO hearing

**Pending review of petitions for contested case, if applicable

Public Participation at DPO Phase

- The issuance of the DPO notice initiates the opportunity for public comment on the requested amendment;
- 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 Request for Amendment 1 or on the DPO after the close of the record at the end of this public hearing on January 19, 2022*;
- For consideration in the contested case, issues raised must be raised with sufficient specificity so that the Council, the Department, and the certificate holder 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.

*Unless otherwise held open by Council.

Agenda Item B (Hearing)

**Oregon Trail Solar Request for Amendment 1,
Public Hearing on the Draft Proposed Order**

January 19, 2023

Presiding Officer – Marcy Grail, Chair, EFSC



Oregon Trail Solar RFA1 Draft Proposed Order: Public Hearing

Order of Oral Testimony and Comments for this Public Hearing:

1. Certificate Holder (testimony or additions to record)
 - Members of Council may ask clarifying questions.
2. Members of the Public (will be called on in the following order):
 - Oral in-person testimony
 - Oral testimony via WebEx
 - Oral testimony via phone
3. Members of Council
4. Certificate Holder's Responses to Comments (optional)



Oregon Trail Solar RFA1 Draft Proposed Order: 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, January 19, 2023**).
- ➔ with sufficient specificity to afford the Council, the Department of Energy and the certificate holder an adequate opportunity to respond, including a statement of facts that support the person's position on the issue.



Oregon Trail Solar RFA1 DPO: 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.



Oregon Trail Solar RFA1 DPO: Public Hearing Testimony

Prior to Testifying, state the following:

- Full name with spelling
- Name of organization or group if you are representing one
- 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 kathleen.sloan@energy.oregon.gov or call the following number and provide the information, including spelling, in a voicemail: 971-701-4913.



Oregon Trail Solar RFA1 DPO: Public Hearing

Certificate Holder

The certificate holder 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.



Oregon Trail Solar RFA1 DPO: Public Hearing

Public

Members of the public may comment on the Draft Proposed Order and/or the Request for Amendment 1.

Presiding Officer or Council Members may ask clarifying questions.



How to Raise Your Hand in Webex:

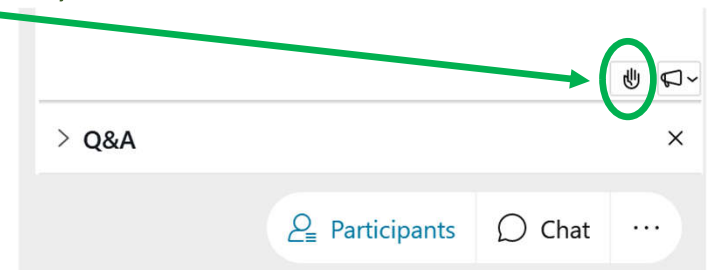
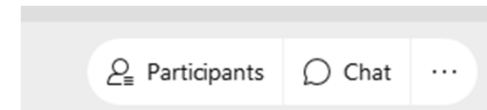
Webinar Participants

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

Click on “Participants”

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

Clicking on it again will lower your hand.



Phone Participants

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

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

Oregon Trail Solar RFA1 DPO: Public Hearing Testimony

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Oregon Trail Solar RFA1 DPO: Public Hearing

Council

Council may comment about any concerns they have related to the Draft Proposed Order and/or the Request for Amendment 1.



Oregon Trail Solar RFA1 DPO: Public Hearing

Certificate Holder's Response to Comments

The certificate holder may respond to any comments by:

- Providing oral responses
- 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

Oregon Trail Solar RFA1 DPO: Public Hearing

Close of the Public Hearing



Recess

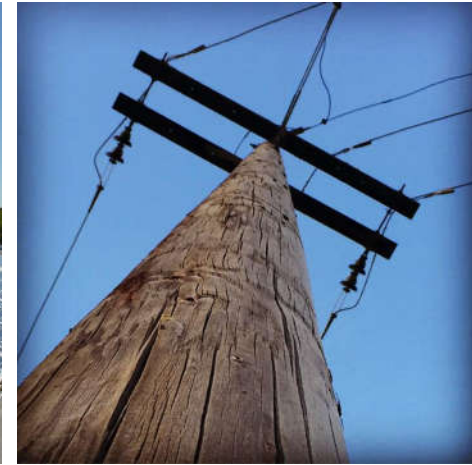


Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Hotel Condon
202 E Main Street
Condon Oregon

January 19-20, 2023



OREGON
DEPARTMENT OF
ENERGY

Agenda Item C (Action Item)

Nolin Hills Wind Power Project – Request for Approval and Appointment of Replacement Hearing Officer

January 20, 2023

Sarah Esterson, Senior Policy Advisor



Background

- Council rules require appointment of hearing officer to conduct contested case proceedings during ASC review (OAR 345-015-0023)
- Appointed hearing officer is typically presiding officer for ASC draft proposed order public hearings (OAR 345-015-0220)
- ODOE has an Intergovernmental Agreement with Office of Administrative Hearings – to utilize Administrative Law Judges (ALJ) familiar with state-proceedings for EFSC’s ASC-related proceedings

Oregon Office of Administrative (OAH) Hearings

- Provides an independent and impartial forum for citizens and businesses to dispute state agency actions.
- 65 professional ALJ's for approximately 70 state agencies.
- ODOE/EFSC is one of the few agencies not required to utilize OAH.
- Entered into agreement with OAH in 2017 based on their expertise in contested cases and the number of ALJ's who could serve as Hearing Officers for EFSC.
- To date EFSC has appointed OAH ALJ's as Hearing Officers for the following projects:
 - B2H Transmission Line - ALJ Allison Greene Webster
 - Obsidian Solar Center - ALJ Joe Allen
 - Bakeoven Solar Project - ALJ Joe Allen
 - Madras Solar Energy Facility - ALJ Joe Allen
 - Eugene to Medford Transmission Line Amendment 4 - ALJ Joe Allen
 - Wagon Trail Solar Project - ALJ Joe Allen
 - Nolin Hills Wind Power Project - ALJ Kate Triana



Council Request – Appointment of Replacement ALJ

ASC:

Nolin Hills Wind Project

Reason:

OAH staff schedule conflicts/resource demand

Appointed ALJ:

Kate Triana

Proposed ALJ Replacement:

Alison Greene-Webster

Staff Recommended Hearing Officer

Allison Greene Webster

- Council-appointed hearing officer presiding over the contested case proceedings for the Boardman to Hemingway Transmission Line, currently under review.
- Oregon State Bar Certified
- Presided over numerous contested case hearings for a variety of state agencies, boards and commissions.
- Juris Doctorate from Loyola Law School in Los Angeles
- Bachelor's degree in Communications from UCLA

Council Options

Option 1 – Staff Recommendation

Appoint ALJ Allison Greene Webster as Hearing Officer

Option 2

Do not appoint ALJ as Hearing Officer for specified reasons

Council Deliberation



Agenda Item D (Information Item)

Council Appointment to The Climate Trust's Oregon Offset Committee

January 20, 2023

Todd Cornett, Siting Division Administrator/Council Secretary



The Climate Trust

- Sole Qualified Organization

OAR 345-001-0010(49)(c)(B) - *Require that decisions on the use of the offset funds are made by a decision-making body composed of seven voting members **of which three are appointed by the Council (emphasis added)**, three are Oregon residents appointed by the Bullitt Foundation or an alternative environmental nonprofit organization named by the body, and one is appointed by the applicants for site certificates that are subject to OAR 345-024-0550, 345-024-590, and 345-024-0620 and the holders of such site certificates; and*

- The Climate Trust Board – original decision-making body
- The Oregon Offset Committee – current decision-making body



Current Council Appointees to Oregon Offset Committee

- Cindy Condon – EFSC Member. Appointed on October 23, 2020 with a term expiration of October 23, 2024.
- Brad Hunter – Vice President and Senior Business Lender with Craft3. Appointed on April 27, 2018 with a term expiration of April 27, 2022.
- Arya Behbehani – General Manager of Environmental and Licensing Services with Portland General Electric. Appointed on July 1, 2018 with a term expiration of June 30, 2022.



Council Decision Options

Option 1 - Staff Recommendation

Appoint Brad Hunter and Morgan Rider to four year terms on the Oregon Offset Committee

Option 2

Not appoint one or both, direct staff to solicit additional interest and delay appointments

Council Deliberation



Agenda Item E

PUBLIC COMMENT

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

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



How to Raise Your Hand in Webex:

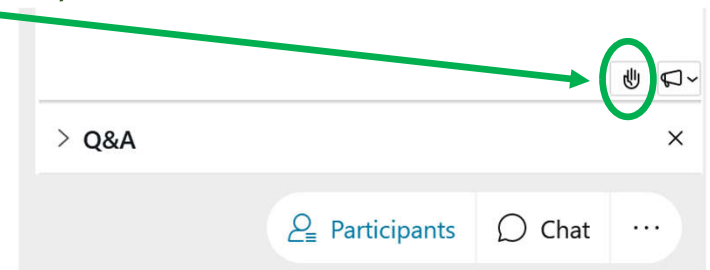
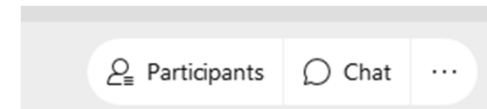
Webinar Participants

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

Click on “Participants”

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

Clicking on it again will lower your hand.



Phone Participants

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

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

Agenda Item F (Action Item)

Annual Financial Assurance Update

January 20, 2023

Sisily Fleming, Fiscal Analyst



Annual Financial Assurance Update

Energy Facility Siting Council 2023 Proposed Financial Institutions

Letter of Credit	Bond
Bank of America N.A.	Federal Insurance Co
Bank of Nova Scotia (NY Agency)	Fidelity & Deposit Co of MD
Bank of the West	Hanover Insurance Group
Barclay's Bank, PLC (NY Branch)	Liberty Mutual Insurance Company
Citibank, N.A.	SAFECO Insurance Co of America
CoBank	Travelers Casualty & Surety Co of America
Helaba (NY Branch of Landesbank Hessen-Thuringen GZ)	Westchester Fire Insurance Co
JP Morgan/Chase Bank, N.A.	
MUFG Bank, N.A.	
Natixis (NY Branch)	
Royal Bank of Canada (NY Branch)	
Royal Bank of Scotland Connecticut Branch	
US Bank	
Wells Fargo Bank, N.A.	
Sumitomo Mitsui Banking Corporation (SMBC, NY Branch)	

Council Decision Options

Option 1 - Staff Recommendation

Approve recommended templates and financial institutions for use in 2023

Option 2

Approve recommended templates and financial institutions for use in 2023, with changes

Council Deliberation



Agenda Item G (Action Item)

Alto Columbia, LLCs Request to Amend Port of Morrow Agreement

January 20, 2023

Sarah Esterson, Senior Policy Advisor



Presentation Overview

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



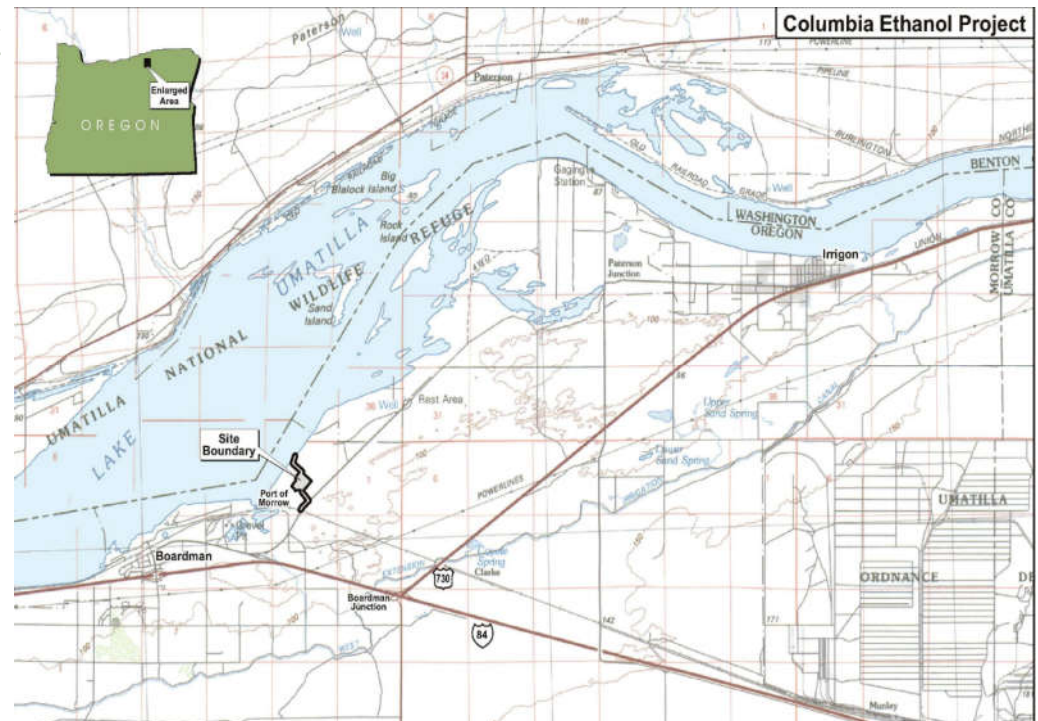
Facility Background

Certificate Holder: Alto Columbia, LLC

Type of Facility: Ethanol, 44 mg/yr

Location: Morrow County

Status: Operating



POM Agreement Amendment

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

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

POM Agreement Amendment

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

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

POM Agreement Amendment

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

- POM requests refinement of arbitration language:
 - > Rather than general reference to arbitration process – detail in the steps and location of arbitration

- ODOE recommends removal of Section 7:
 - > Language referred to the 2017 Final Order on Amendment 1 process which had not yet concluded at the time of the agreement drafting – no longer applies

Council Options for Alto Columbia, LLC

Option 1 – Staff Recommendation

Approve change to agreement.

Option 2

Deny change to agreement, for specified reasons.

Council Deliberation



BREAK



Agenda Item H (Information Item)

Oregon Trail Solar Facility, Council Review of Draft Proposed Order On Request for Amendment 1

January 20, 2023

Kathleen Sloan, Senior Siting Analyst



Presentation Overview

- Facility Overview and Site Certificate History
- Request for Amendment 1 (RFA1) Proposed Changes and Procedural History
- Review of Draft Proposed Order (DPO), Council Standards and Comments Received on DPO
 - A total of XX commenters submitted public comments (oral and written) on the DPO during the open public comment period.

Facility Overview

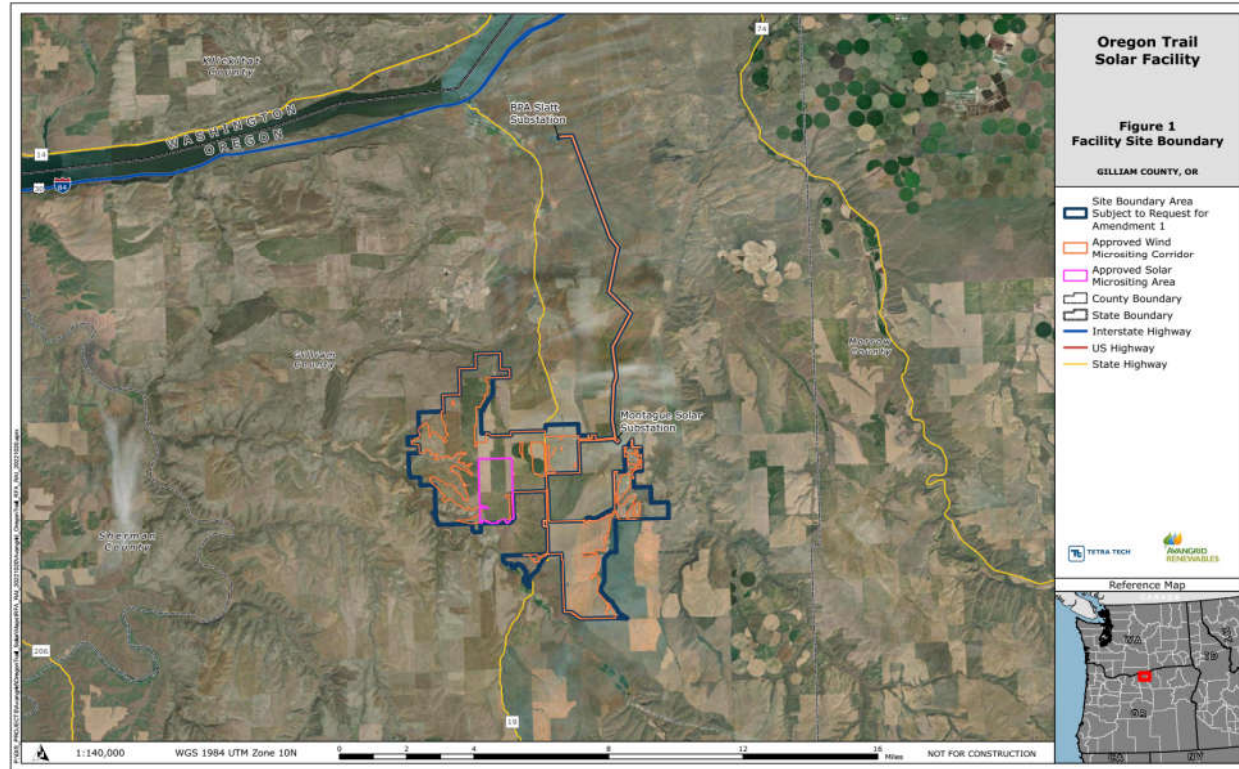
Certificate Holder:	Oregon Trail Solar, LLC
Parent Company:	Avangrid Renewables, LLC, the U.S. division of parent company Iberdrola, S.A.
Type of Facility (Not yet constructed):	Wind/solar/battery (41 MW)



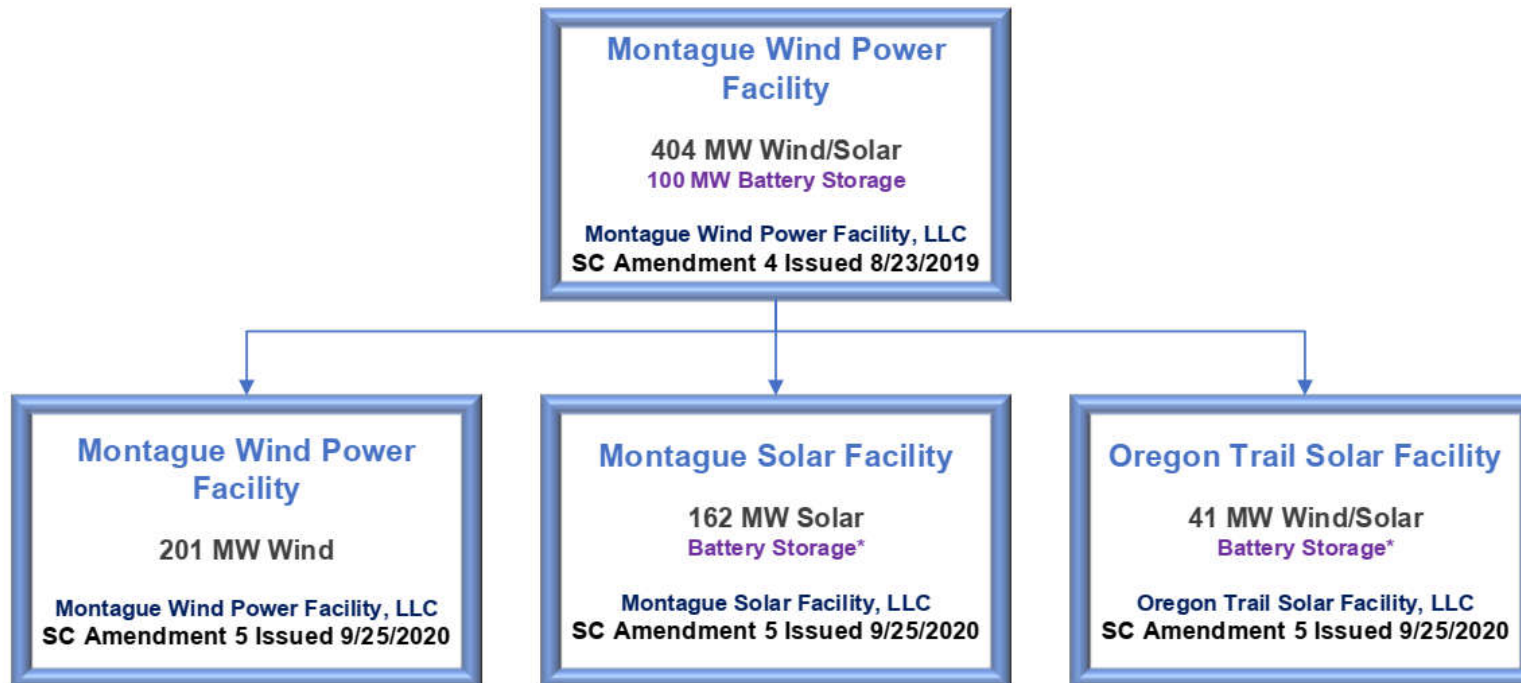
Facility Site/Site Boundary Location

Site Boundary

- Private land, within Gilliam County near Condon.
- 13,866-acre site boundary:
 - Approved micrositing corridor for wind – 12,638 acres
 - Approved micrositing corridor for solar – 1,228 acres



Oregon Trail Solar Facility: Site Certificate History



* Maximum combined Battery Storage for Montague Solar and Oregon Trail Solar not to exceed 100 MW

Oregon Trail Solar: RFA1 Procedural History

Milestone	Responsible Party	Date
Preliminary RFA1 and Type B Review ADR	Cert Holder	Aug 19, 2022
Type B Review ADR Determination	ODOE	Nov 10, 2022
Complete RFA1	Cert Holder	Dec 19, 2022
Draft Proposed Order	ODOE	Dec 23, 2022
Draft Proposed Order Public Hearing	EFSC	Jan 19, 2023
EFSC Review of DPO and Public Comments*	EFSC	Jan 20, 2023
Proposed Order**	ODOE	TBD
Final Decision	EFSC	TBD

* Pending the close of the record of the DPO hearing

**Pending review of petitions for contested case, if applicable



Oregon Trail Solar Facility: Request for Amendment 1

Request for Amendment 1 (RFA1) seeks approval from EFSC for the following changes:

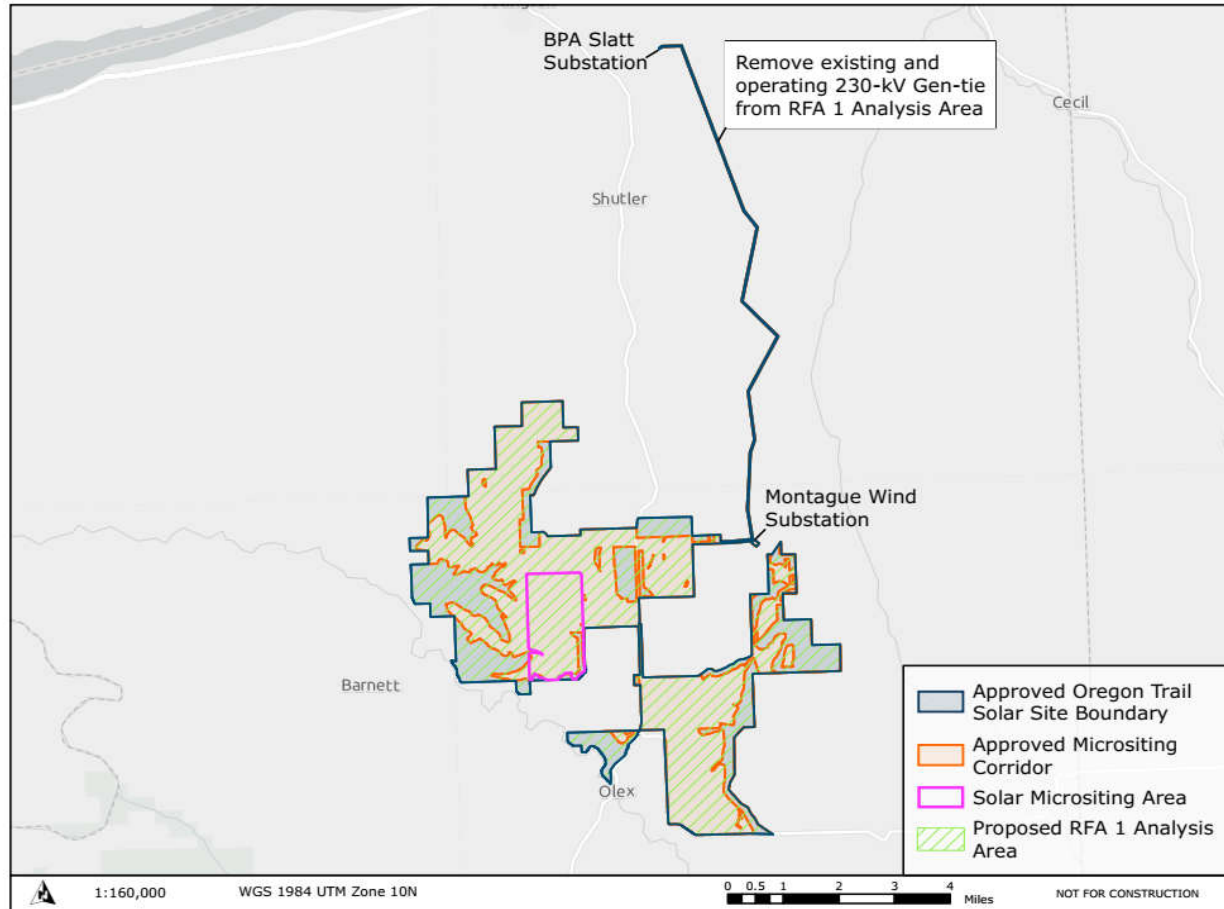
- **Amend Condition 24 to extend the construction commencement deadline from August 30, 2022 to August 30, 2025.**
- **Revise Condition 50(b) to modify the cultural resources monitoring requirement.**

Oregon Trail Solar RFA1- Scope of Review

- OAR 345-027-0375(2)(a) – Scope of Council’s Review for Time Extension Request

*For a request for amendment to extend the deadlines for beginning or completing construction, **after considering any changes in facts or law (emphasis added)** since the date the current site certificate was executed, the facility complies with all laws and Council standards applicable to an original site certificate application*

Oregon Trail Solar Facility: RFA1 Analysis Area



Overview of Draft Proposed Order

Standards where there were no new impacts or where no new/substantive amended conditions were recommended:

- Structural Standard
- Soil Protection
- Protected Areas
- Scenic Resources
- Recreation
- Public Services
- Waste Minimization
- Divisions 23 Standards
- Cumulative Effects Standard for Wind Energy Facilities
- Noise Control Regulations
- Removal-Fill Law
- Water Rights

Overview of Draft Proposed Order

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000

P. 10-13

Department recommends Council make the following new findings of fact:

- This is the first construction commencement deadline extension request for this site certificate. The certificate holder is only allowed to request one more.
- Council is authorized to grant a three-year construction commencement and completion deadline extension pursuant to OAR 345-027-0385(3)(a).



Overview of Draft Proposed Order

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000

P. 10-13

Department recommends Council amend the following conditions:

- Amend Condition 24 to authorize the construction commencement deadline extension.
- Amend Condition 25 to remove boiler-plate carry over language from older site certificates and unnecessary rule language.
- Amend Condition 27 to remove required maximum dimensions and specifications for facility components.



Overview of Draft Proposed Order

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000

P. 10-13

Recommended Amended Condition 24: The certificate holder shall begin construction of the facility by August 30, ~~2022~~ 2025. ~~Certificate holder shall provide written notification to the Department of “start of construction” as defined in ORS 469.300(6). The Council may grant an extension of the deadline to begin construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted. [AMD5, Sept 2020]~~

Recommended Amended Condition 25: The certificate holder shall complete construction of the facility by [3 years of from the date of construction commencement]. ~~Construction is complete when: (1) the facility is substantially complete as defined by the certificate holder’s construction contract documents, (2) acceptance testing has been satisfactorily completed and (3) the energy facility is ready to begin continuous operation consistent with the site certificate.~~ The certificate holder shall promptly notify the Department of the date of completion of construction. ~~The Council may grant an extension of the deadline for completing construction in accordance with OAR 345-027-0385 or any successor rule in effect at the time the request for extension is submitted.~~ [MWP Final Order on ASC, AMD5; OTS AMD1]



Overview of Draft Proposed Order

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000

P. 10-13

Recommended Amended Condition 27:

The certificate holder shall construct a facility substantially as described in the site certificate ~~and may select turbines of any type, subject to the following restrictions and compliance with all other site certificate conditions.~~ Before beginning construction, the certificate holder shall provide to the Department a description of the facility to be constructed, any phasing and construction schedule. ~~turbine types selected for the facility demonstrating compliance with this condition. Components may include any combination of wind and solar energy generation equipment, up to 16 wind turbines or the maximum layout (including number and size) of solar array components substantially as described in RFA4 and RFA5. The maximum blade tip height must not exceed 597 feet (182 meters). The minimum aboveground blade tip clearance must be 46 feet (14 meters).~~

[MWP Final Order on ASC; AMD3; AMD4; AMD5; OTS RFA1]



Overview of Draft Proposed Order

III.B. ORGANIZATIONAL EXPERTISE: OAR 345-022-0010

P. 13-17

Department recommends Council make the following new findings of fact:

- Certificate holder (Oregon Trail Solar, LLC) is a project-specific, member-managed LLC and relies upon the experience, expertise and access to technical and financial resources of its parent company (Avangrid Renewables, LLC) to meet the standard.
- The parent company is the sole member of the LLC; as the sole member, the parent company directs the LLC to permit, design, construct, operate and retire the facility



Overview of Draft Proposed Order

III.B. ORGANIZATIONAL EXPERTISE: OAR 345-022-0010

P. 13-17

Department recommends Council make the following new findings of fact

- Evidence of the parent company's commitment to continue supporting the certificate holder, as an LLC, is provided via reference to similarly structured LLC-parent company certificate holders - Montague Solar Facility (currently under construction) and Montague Wind Power Facility (in operation since 2019).
- Facility assets of up to \$65 million would be held by the certificate holder once the facility is constructed/operational



Overview of Draft Proposed Order

III.E. LAND USE: OAR 345-022-0030

P. 32-40

- Applicable substantive criteria from Gilliam County Special Advisory Group (SAG) were based on Gilliam County Zoning Ordinance from 2017, have been previously evaluated by Council, and have not been changed since Council's prior review in 2020 when the OTS site certificate was approved. Council may rely on previous findings.
- Council previously approved a Goal 3 reasons exception for 1,228 acres of solar under statewide planning goals based on a finding of: 1) local economic benefit, 2) minimal impacts to agriculture, 3) no impacts to lands with water rights, and 4) unique site selection and proximity to grid integration structure.

Overview of Draft Proposed Order

III.E. LAND USE: OAR 345-022-0030

P. 32-40

Department recommends Council make the following new findings of fact related to the exception to Goal 3 previously approved by Council for solar in EFU zoned land:

- Local economic benefits from facility construction that could be realized include use of up to 17 local businesses including RV parks, fuel providers, hardware stores, rock suppliers, hotels and restaurants; and, annual tax payments to Gilliam County of \$800k+
- Local economic benefits from facility construction/operation include landowner lease agreements, which have been executed and provided to Council.
- Local economic benefits from facility construction/operation also include certificate holder implementation of local programs: Pioneer Community Development Corporation and the Gilliam County Soil and Water Conservation District (estimated \$254,000 each over 15 years) to support the County in addressing a housing shortage, and fund irrigation efficiency upgrades, annual grass treatments, and fencing, to benefit local agriculture.



Overview of Draft Proposed Order

III.E. LAND USE: OAR 345-022-0030

P. 32-40

Department recommends Council make the following new findings of fact:

- Minimal impacts to agriculture include use of up to 400 acres within the 1,228 acre microsite area, which represents less than 1 percent within Gilliam County and less than 0.05% of lands available within the subject tracts.
- Certificate holder commits to construct the approved solar in an area not-to-exceed 400 acres of facility components within the previously approved 1,228-acre solar microsite area.



Overview of Draft Proposed Order

III.E. LAND USE: OAR 345-022-0030

P. 32-40

Department recommends Council impose a new condition (See DPO P.38)

Recommended Land Use Condition:

If the final facility design includes solar photovoltaic energy generation components, the certificate holder shall:

- a. Prior to construction, provide to the Department an executed agreement between the Pioneer Community Development Corporation and Gilliam County Soil and Water Conservation District. The agreements shall be legally binding and include a description of programs, where such program must benefit local housing and agriculture, and a description affirming program implementation will occur within 1-year of commercial operation and based on receipt of \$500/MW for 15-years from the date of facility operation.
- b. In the annual report to the Department, per Condition 21, include a description and evidence (e.g. photos, letters or other publicly available information) related to program implementation and recognized benefits.



Overview of Draft Proposed Order

III.G. RETIREMENT AND FINANCIAL ASSURANCE: OAR 345-022-0050 P.56-65

- There are no changes in tasks or actions, or methodology in estimating facility retirement since Council's approval of the Final Order on Montague Wind Request for Amendment 5 (2020), which included review of the OTS facility.
- The certificate holder has adequately identified and estimated the actions, tasks and costs of retirement of the facility.
- RFA1 Attachment 13 includes an updated financial assurance July 2022 letter from Liberty Mutual Surety, an Aon Risk Services and Liberty Mutual Insurance Company and provides reasonable assurance of certificate holder's ability to obtain bond or letter of credit in the referenced amount.



Overview of Draft Proposed Order

III.G. RETIREMENT AND FINANCIAL ASSURANCE: OAR 345-022-0050 P.56-65

Department recommends Council make the following new findings of fact:

- Current labor rates and unit costs were used to update the previous facility retirement cost estimate for previously approved wind, solar and battery components, resulting in updated estimate of \$7 million in 2022 dollars.
- Liberty Mutual Insurance Company issued a letter dated July 12, 2022 affirming its commitment to issue a bond up to \$10 million.



Overview of Draft Proposed Order

III.H. FISH AND WILDLIFE HABITAT: OAR 345-022-0060

P.65-70

Department recommends Council make the following new findings of fact:

- Impacts to fish and wildlife habitat will only result if wind facility components within the wind micrositing corridors are constructed, equal to approximately 2.4 acres of Category 2, 3 and 4 habitat (solar facility components would be constructed entirely within Category 6 habitat, or agricultural lands).
- A fully executed and recorded Declaration of Conservation Easement and habitat map of available 6 acre mitigation area provided to Council.

Department recommends Council amend the following condition:

- Amend Condition 93 to clarify that the requirements of the Habitat Mitigation Plan will only apply if wind facility components are constructed.



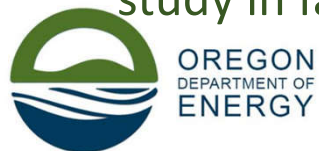
Overview of Draft Proposed Order

III.I. THREATENED AND ENDANGERED SPECIES: OAR 345-022-0070

P.70-78

Department recommends Council amend the following conditions:

- Amend Condition 94 to clarify the requirements of preconstruction surveys conducted to identify the presence of Washington ground squirrels (WGS), and follow-up checks if construction does not commence within 1-year of the preconstruction surveys, and the extent of habitat delineation (for Category 1 and 2) if WGS or WGS colonies/borrows are identified. (See DPO P.75-76)
- Amend Condition 95 to remove a requirement for T&E plant species due to the results of both field and literature reviews included in RFA1; and, remove a requirement to complete avian use studies due to the lack of clarity in purpose/value of the results of the study in facility design, mitigation or otherwise. (See DPO P.76-77)



Overview of Draft Proposed Order

III.K. HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES: OAR 345-022-0090 P.90-97

Department recommends Council make the following new findings of fact:

- 2022 records search and surveys conducted for RFA1 identified no new resources within analysis area.

Department recommends Council amend the following condition:

- Amend Condition 50(b) to provide more flexibility for how a decision to monitor, or continue to monitor, is made between the CTUIR and the certificate holder during construction.



Overview of Draft Proposed Order

III.K. HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES: OAR 345-022-0090 P.90-97

Recommended Amended Condition 50: During construction, the certificate holder shall:

(a) Ensure that a qualified archeologist, as defined in OAR 736-051-0070, instructs construction personnel in the identification of cultural materials and avoidance of accidental damage to identified resource site.

(b) Employ a qualified cultural resource monitor to conduct monitoring of ground disturbance at depths of 12 inches or greater during grading, trenching, or drilling activities. The qualifications of the selected cultural resources monitor shall be reviewed and approved by the Department, in consultation with the CTUIR Cultural Resources Protection Program. In the selection of the cultural resources monitor to be employed during construction, preference shall be given to citizens of the CTUIR. ~~Ground disturbance at depths 12 inches or greater shall not occur without the presence of the approved cultural resources monitor.~~ If any cultural resources are identified during monitoring activities, the steps outlined in the Inadvertent Discovery Plan, as provided in Attachment ~~H~~X of the Final Order on Amendment ~~5~~1 should be followed. The Certificate Holder may modify the cultural monitoring plan in consultation with the CTUIR and notification to the Department. The certificate holder shall report to the Department in its semi-annual report a description of the ground disturbing activities that occurred during the reporting period, dates cultural monitoring occurred, and shall include copies of monitoring forms completed by the cultural resource monitor.

~~[MWP AMD5, Sept 2020, OTS AMD1]~~

(See DPO P.96)



Overview of Draft Proposed Order

III.N. WILDFIRE PREVENTION AND RISK MITIGATION: OAR 345-022-0115 P.112-133

- Wildfire risk for the analysis area was characterized by the certificate holder based on data and information from Oregon Community Wildfire Planning Tool, Wildfire Risk Explorer tool in Oregon Explorer, and the 2018 Pacific Northwest Quantitative Wildfire Risk Assessment: Methods and Results, National Wildfire Coordinating Group, U.S. Forest Service and the National Oceanic and Atmospheric Administration.
- Evaluation by the certificate holder and the Department considered wildfire risk based on factors that are expected to remain fixed for multiple years, including topography of the site, vegetation, existing infrastructure, regional climate, and the Burn Probability.
- Seasonal wildfire risk was further evaluated based on factors that are expected to remain fixed for multiple months but may be dynamic throughout the year, including cumulative annual and monthly precipitation, Fuel Moisture Content, and an evaluation of Average Flame Length which is the average length of flames expected during a fire, given local fuel and weather conditions.
- High-fire consequence areas were identified and characterized as including residences, critical infrastructure, recreational opportunities, timber and agricultural resources, and fire-sensitive wildlife habitat.



Overview of Draft Proposed Order

III.N. WILDFIRE PREVENTION AND RISK MITIGATION: OAR 345-022-0115 P.112-133

Department recommends Council make the following new findings of fact:

- The analysis area has a moderate risk of wildfire.
- Draft Wildfire Mitigation Plan (WMP) includes a description of procedures, standards and timeframes for inspecting facility electrical components, and a set of vegetation management procedures and other preventative actions and programs by component to reduce wildfire risk, and minimize risks to the health and safety of the public and responders and resources in the event of wildfire.



Overview of Draft Proposed Order

III.N. WILDFIRE PREVENTION AND RISK MITIGATION: OAR 345-022-0115 P.112-133

Department recommends Council amend the following condition:

- Amended Condition 60 will require the submittal of a final WMP that includes all the applicable measures include in the Draft WMP (Attachment E of the DPO) and requires certificate holder review and update every 5 years after Year 1 of operations and include in the annual report for the facility. (See DPO P. 132-133)

Overview of Draft Proposed Order

III.P. PUBLIC HEALTH AND SAFETY OF WIND ENERGY FACILITIES: OAR 345-024-0010 P.136-139

- The facility is sited entirely on private property, thereby restricting public access to facility components, including turbines and battery storage components.
- Existing site certificate Condition 64 requires review and approval of final locations of turbines and met towers by the Federal Aviation Administration (FAA) and Oregon Department of Aviation to confirm they pose no navigational hazards.
- Existing site certificate Conditions 66 through 69 require locked doors for turbine tower access, interior adders, locked cabinets for step-up transformers, and fenced areas with locked gates for the battery storage and solar array.
- Condition 27 imposes a minimum above-ground blade tip clearance, limit on total number of turbines and the maximum blade tip height requirements.
- Condition 42 established a setback requirement for all turbines of a minimum of 1,320 feet from residences and 110 percent of maximum blade tip height from public roads.



Overview of Draft Proposed Order

III.P. PUBLIC HEALTH AND SAFETY OF WIND ENERGY FACILITIES: OAR 345-024-0010 P.136-139

Department recommends Council amend the following condition:

- Amend Condition 67 to better address the potential impacts from structural failure of wind components, including a requirement that certificate holder develop and provide to the Department a clear protocol for safety inspections, monitoring, documentation, and adhere to the 72-hour reporting requirement. (See DPO P. 137-138)



Overview of Draft Proposed Order

Summary of Comments Received on the Draft Proposed Order:

- **Certificate holder (January 12, 2023)**
 - Land Use (Goal 3 exception)
 - Public Health and Safety for Wind (disagrees with changes proposed by ODOE on Condition 67)
 - Wildfire Mitigation (disagrees with ODOE's proposed 5-year review of wildfire mitigation plan)
 - Change in CEO

Council Comments/Deliberation



Adjourn

