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To: Energy Facility Siting Council

From: Kathleen Sloan, Senior Siting Analyst

Date: August 10, 2023

Subject: Agenda Item D (Information Item and Public Hearing): Obsidian Solar Center: Public Hearing on the Draft Proposed Order on Request for Site Certificate Amendment 1 for the August 24, 2023 EFSC Meeting

Attachments: Attachment 1: Draft Proposed Order on Request for Site Certificate Amendment 1
Attachment 2: Draft Proposed Order Comments (to date, no comments have been received. Any comments received after the date of this staff report will be provided in Supplemental Council Packet Materials prior to August 24, 2023 meeting)

STAFF RECOMMENDATION

The Oregon Department of Energy's (Department) Draft Proposed order on Request for Amendment 1 of the Obsidian Solar Center Site Certificate recommends the Energy Facility Siting Council (EFSC or Council) approve the requested site certificate amendment and grant issuance of a first amended site certificate, subject to compliance with existing, recommended amended, and recommended new site certificate conditions.

APPROVED FACILITY OVERVIEW

Council issued a site certificate for Obsidian Solar Center on February 25, 2022. The site certificate authorizes construction and operation of an 400 megawatt-alternating current (MWac) solar photovoltaic (PV) energy generation facility, to be located within an approximately 3,921 acres (6.1 sq. miles) site boundary. Related or supporting facilities include 50 MW of battery storage [dispersed or centralized]; a 34.5 kV electrical collection system; up to four 1-acre collector substations; one 3-acre 115/500 kV step-up substation; 2 miles of 115 kilovolt (kV) transmission line; up to 2 operations and maintenance (O&M) building(s); a supervisory control and data acquisition (SCADA) System; approximately 50 miles of internal/perimeter roads; and 7-foot-tall perimeter fencing.

The site certificate requires that facility construction commence on or before February 25, 2025, unless an extension of the construction commencement deadline is requested by the certificate holder and authorized by Council. Construction has not yet commenced for this facility.

AMENDMENT REQUEST PROCEDURAL HISTORY

On April 12, 2023, Obsidian Solar Center, LLC submitted preliminary Request for Amendment 1 of the Obsidian Solar Center Site Certificate (RFA1) to the Department. Following 2 months of review and coordination with state, tribal and local governments on the changes proposed in the amendment request, and changes in fact or law¹, the Department determined RFA1 to be complete on July 28, 2023 and issued its Draft Proposed Order on Amendment 1 (DPO) on August 1, 2023. On the same day as DPO issuance, the Department issued a public notice of a comment period on the DPO extending from August 1 through August 24, 2023; and, of an August 24, 2023 hybrid (in-person/remote) public hearing where interested individuals may provide written or oral testimony on the DPO and RFA1.

As of the date of this staff report, the Department has not received any written comments on RFA1 or the Draft Proposed Order on RFA1. Any comments that are received prior to the Public Hearing will be provided to the Council and certificate holder in advance of the August 24, 2023 meeting.

PROPOSED AMENDMENT REQUEST

The changes proposed in RFA1 include increasing the site boundary from 3,921 to 4,090 acres (169 acre increase, "Area E"), increasing the micro-siting area from 3,589 to 3,678 acres (89 acre increase) and increasing the footprint of the GSU step-substation, if located in Area E, from 3 to 12 acres.

In addition, RFA1 seeks approval for the following changes:

1. Modify the specifications of the approved 115 kV transmission line: increase the length from 2 to 3.2 miles; increase the voltage from 115 to 138 kV; increase the number of single steel monopole structures from 43 to 47, and increase structure height from 70 to 80 feet.
2. Modify the specifications of the approved above-ground electrical collection system: increase the voltage of approximately 2.3 miles of previously approved 34.5 electrical collection system to 138 kV aboveground collection system, using 33 single steel or wood monopole structures, 80 feet in height.
3. Amend the language of conditions previously imposed by Council to be consistent with the changes proposed in RFA1. Proposed amended conditions include: General Standard Condition 9 [GEN-SG-06], Land Use Condition 2 [PRE-LU-02], Siting Standards for Transmission Lines Condition 1 [PRO-TL-01], see RFA1 Attachment 1).

NEXT STEPS

The public hearing will include an opportunity for the certificate holder, the public and Council members to comment on the record and for the certificate holder to respond to any comments. Following the conclusion of the public hearing and close of the record, and at a future Council meeting, Council will receive a staff presentation on a draft of the Proposed Order that will review all comments received on the record of DPO, present Department draft responses to

those comments as incorporated in redline changes to the DPO, and may include additional findings of fact or conditions that are included in the draft of the Proposed Order. Council will have an opportunity to provide comments to the Department to consider for additional changes to the Proposed Order.

STAFF EVALUATION OF AMENDMENT REQUEST AND SUMMARY OF DRAFT PROPOSED ORDER

The Department's DPO presents an evaluation of the requested amendment under each applicable Council standard.

To evaluate changes in fact or law as is required for an amendment to expand the site boundary, the certificate holder conducted additional literature reviews, consultations, and field surveys for the area to be added to the site boundary. For many Council standards, the literature and field surveys were evaluated for any changes or new information since Council's prior analysis as presented in the 2022 Final Order on the Application for Site Certificate. For Council and the public's reference, the DPO presents the sources reviewed by the Department and certificate holder to confirm whether any changes in fact or law, as a result of proposed RFA1 changes, had occurred, and then incorporates/presents the prior facts related to resources protected by Council standards.

Because RFA1 changes include an addition of 169 acres to the site boundary, all standards were reviewed by the Department for the proposed RFA1 changes for any substantive changes in fact or law since Council's review of the ASC and approval of the Final Order on the ASC in Feb. 2022. Based on the Department's review of information on proposed changes, literature reviews, consultations, and field work included in the ASC and the RFA1, the Department did not identify any substantive changes or make recommended amended or new conditions for the following Council standards:

- Structural Standard [OAR 345-022-0020] (P. 22-28 in DPO)
- Soil Protection Standard [OAR 345-022-0022] (P. 28-33 in DPO)
- Protected Areas Standard [OAR 345-022-0040] (P. 43-50 in DPO)
- Fish and Wildlife Habitat Standard [OAR 345-022-0060] (P. 57-64 in DPO)
- Threatened and Endangered Species Standard [OAR 345-022-0070] (P. 64-67 in DPO)
- Scenic Resources Standard [OAR 345-022-0080] (P. 67- 71 in DPO)
- Historic, Cultural and Archaeological Resources Standard [OAR 345-022-0090] (P. 71-74 in DPO)
- Recreation Standard [OAR 345-022-0100] (P. 74-78 in DPO)
- Public Services Standard [OAR 345-022-0110] ² (P. 78-86 in DPO)
- Waste Minimization Standard [OAR 345-022-0120] (P. 95-96 in DPO)
- Noise Control Regulations [OAR-035-0035] (P. 98-110 in DPO)
- Removal Fill [OAR 141-085-0500 through 141-085-0785] (P. 110-113 in DPO)
- Water Rights [OAR 345-022-0000(1)(b), 345-021-0010(1)(o)(F)] (P. 113-114 in DPO)

² See recommended deletion of Public Services Condition 4 and replace with new recommended Wildfire Prevention Conditions 1 and 2.

Standards where proposed RFA1 changes included or identified any changes in fact or law resulting in Department-recommended substantive new or amended condition language changes in the DPO, are listed below and will be presented in Council’s review of the DPO at a future EFSC meeting:

III.A. GENERAL STANDARD OF REVIEW: OAR 345-022-0000P. 14-19.

RFA1 requests a change in transmission line corridor extending to the proposed alternate GSU substation location per OAR 345-025-0010(5), consistent with the Council’s definition of a transmission line “corridor”.

Because RFA1 includes changes to the approved corridor, the Department recommends Council amend General Standard Condition 9 (See P. 18 in DPO) to allow the certificate holder to construct a 138 kV line within an extended approved corridor in Area A to allow for a Point of Interconnection in either Area D or Area E.

III.B. ORGANIZATIONAL EXPERTISE: OAR 345-022-0010.....P. 19-22

RFA1 changes include increases in transmission line voltage from 115 to 138 kV, increase in transmission line length and extent of above-ground components, increases in GSU step-up substation transformer size, collector substation transformer size, and change in GSU step-up substation location.

To ensure qualified personnel oversee and complete the facility, and because of the changes in capacity and components, the Department recommends Council amend Organizational Expertise Condition 2 and impose new recommended Organizational Expertise Conditions 6, 7 and 8 (See P. 21-22 in DPO) requiring submittal of construction and site manager qualifications for each phase of the facility.

II.E. LAND USE: OAR 345-022-0030..... P.33-43

The addition of Area E includes adding a parcel of land currently used for irrigated agriculture with an existing water right for that purpose. In RFA1, the landowner stated their intent to transfer that water right for ongoing agricultural use (See RFA1 Attachment 4). Lake County Special Advisory Group (SAG) commented that as long as the water right for irrigation is transferred for the same use within the county, there would be no-net loss of irrigated agriculture.

To ensure no-net loss of irrigated agriculture, and consistent with the certificate holder’s representations, and the SAG’s comments, the Department recommends Council impose new recommended Land Use Condition 8 (See P. 43 in DPO) which requires the certificate holder to submit evidence of the water right transfer for facility impacts in Area E (if selected for construction) for similar use (irrigated agriculture) in Lake County, prior to construction.

III.G. RETIREMENT AND FINANCIAL ASSURANCE: OAR 345-022-0050 P.50-57

RFA1 changes would result in increased costs for retirement of the facility and its components. To demonstrate its ability to receive an adequate bond or letter of credit, the certificate holder provides a June 28, 2023 letter from Heffernan Insurance Brokers, stating their likely ability to

obtain a bond for up to \$40 million. The new estimate for retirements costs is \$38,108,395 in Q3 2023 dollars.

The Department recommends Council amend Retirement and Financial Assurance Condition 5 (See P. 56-57 in DPO) to reflect the adjusted bond amount based on the updated estimate of \$38.1 million Q3 2023 dollars to retire the facility, with RFA1 changes.

III.N. WILDFIRE PREVENTIONS AND RISK MITIGATION OAR-345-022-0115 P. 86-95

Since Council's approval of the Final Order on the ASC included fire prevention measures for the facility construction and operations (Public Services Condition 4) Council adopted the Wildfire Prevention and Risk Mitigation standard. Updated fire risk assessment as part of RFA1 indicates that the addition of RFA1 is not likely to increase wildfire risk because risk is relatively low. However, the Department recommends that Council require the certificate holder to prepare updated plan(s) per new conditions under this Wildfire standard.

For these reasons, the Department recommends Council replace Public Services Condition 4 and impose new recommended Wildfire Prevention Condition 1 (replaces existing Public Services Condition 4(a) and new recommended Wildfire Prevention Condition 2 (replaces existing Public Services Condition 4(b)), to require final Wildfire Mitigation Plans for both construction and operation phases of the facility, and to require implementation and adherence to those plans, per new recommended Wildfire Prevention Conditions 3 and 4.

III.P. SITING STANDARDS FOR TRANSMISSION LINES : OAR 345-024-0090 P.96-98

RFA1 requests changes in transmission line from 115 kV to 138 kV and includes 138kV collector lines. Existing Siting Standards for Transmission Lines Condition 1 requires notification of landowners prior to operation on potential health and safety risks associated from induced current and electric magnetic fields,

The Department recommends the Council amend Siting Standard for Transmission Lines Condition 1 (See P. 98 in DPO) to update this condition to reflect RFA1 changes to 138kV transmission and collector lines.