



Oregon

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To: Energy Facility Siting Council

From: Todd Cornett, Assistant Director for Siting and Council Secretary

Date: March 8, 2024

Subject: Agenda Item G (Action Item):
Boardman Solar Energy Project Site Certificate Termination
for the March 21-22, 2024 EFSC Meeting

Attachment: Boardman Solar Energy Project Draft Site Certificate Termination Order

PROJECT DESCRIPTION

The Boardman Solar Energy Facility is an approved but not yet constructed solar photovoltaic power generation facility with a peak generating capacity of approximately 75 megawatts (MW). The facility would be comprised of 30 solar module blocks. Each module block would consist of multiple components including the solar modules themselves, trackers, racks, posts, cabling, inverters, and transformers. The project is approved within a site boundary of approximately 798 acres (1.25 sq. miles).

CERTIFICATE HOLDER

The site certificate holder is Boardman Solar Energy LLC, which is a wholly owned subsidiary of Invenergy Solar Development LLC which in turn is a wholly owned subsidiary of Invenergy LLC.

PROJECT LOCATION

The solar energy generation components are approved to be located in Morrow County, whereas the 115-kilovolt (kV) transmission line that would connect the energy facility to the grid would be located within Gilliam County. The approved facility site is located approximately 14 miles west of the City of Boardman, approximately 12 miles east of the City of Arlington and immediately south of Interstate 84.

PROJECT TIMELINE

- August 2016 – Preliminary application submittal
- August 2017 – Complete application determination
- February 2018 – Final Order and Site Certificate approving project with a beginning construction deadline of February 23, 2021.

- October 2019 – Department received a letter from the certificate holder that they were conducting some work on site that did not reach the level of \$250,000, which per ORS 469.300(6) would trigger preconstruction and construction conditions.
- January 2021 – Preliminary request for Amendment #1 submittal – Request to extend beginning and ending construction deadlines.
- August 2021 – Complete Amendment #1 Request
- September 2021 – Final Order and Site Certificate on Amendment #1 approving a new beginning construction deadline of February 23, 2024.
- December 14, 2023 – Sarah Esterson, Oregon Department of Energy (ODOE or Department) Senior Policy Advisor sent an email reminder to the certificate holder that the site certificate would expire unless they submitted an amendment request to change the beginning construction deadlines prior to February 23, 2024.
- February 7, 2024 – Representatives of the certificate holder sent an email letting the Department know they would let the site certificate expire and seek approval of the project through Morrow County because HB 3179, approved during the 2023 legislative session, gave counties more authority to approve bigger solar projects. The EFSC jurisdictional thresholds for solar PV projects are now:
 - >240 acres located on high-value farmland as defined in ORS 195.300;
 - >2,560 acres located on land that is predominantly cultivated or that, if not cultivated, is predominantly composed of soils that are in capability classes I to IV, as specified by the National Cooperative Soil Survey operated by the Natural Resources Conservation Service of the United States Department of Agriculture
 - >3,840 acres located on any other land

It should be noted that the 798-acre project is located entirely within the Columbia Valley Viticulture Area. Per ORS 195.300(10)(f), if the following apply in a designated viticulture area, that land is designated “High-Value Farmland”:

- is in an exclusive farm use zone
- is no more than 3,000 feet above mean sea level
- has an aspect between 67.5 and 292.5 degrees
- has a slope between zero and 15 percent,

On page K-4 of Exhibit K – Land Use, of their application for site certificate, the following was included:

“However, the Facility site is located within the approximately 11-million acre Columbia Valley AVA that in Oregon generally stretches from The Dalles to Milton-Freewater (see AVA map in Attachment K-4). Therefore, by law, the land within the Facility site boundary is considered highvalue farmland under ORS 195.300(10)(f)(C).”

On February 13, 2024, Ms. Esterson sent an email to certificate holder representatives reminding them that based on the information included in their application, the Boardman Solar Energy Project is located entirely on high-value farmland per ORS 195.300(10)(f)(c). Therefore, even with the change in acreage threshold through HB 3179, the project would be Energy Facility Siting Council (EFSC or Council) jurisdictional if over 240 acres, unless the initial project evaluation did not consider the slope/aspect criteria. On that same date,

certificate holder representatives responded that they had not done the evaluation in the original application and their determination that the entire 798 acres was high value farmland was an over estimation. Because the entire 798-acre project was determined to be high-value farmland during the original application review, Ms. Esterson told them they would need to submit a jurisdictional determination request with sufficient information for ODOE to conclude that the project, as proposed, has less than 240 acres of high-value farmland and can now lawfully be reviewed by Morrow County.

On March 1, 2024, the certificate holder sent a jurisdictional determination request to the Department which includes slope/aspect detail of the project site. At the time of this staff report, a jurisdictional determination had not yet been completed. Please note that the Department's request for the Council to terminate the Boardman Solar Energy Project site certificate is not contingent upon the jurisdictional determination. Per the rules below, the site certificate has already expired and must be terminated. If the Department determines the project site contains 240 acres or less of high-value farmland, the County has jurisdictional authority. However, if the Department determines the project site contains more than 240 acres, EFSC has jurisdictional authority and Invenergy will need to reinstate the EFSC review process if they intend to keep the project in its same configuration.

APPLICABLE OREGON ADMINISTRATIVE RULES

345-027-0110 - Termination of a Site Certificate

(9) When the Council finds that the site certificate has expired as described in OAR 345-027-0313, the Council shall issue an order terminating the site certificate.

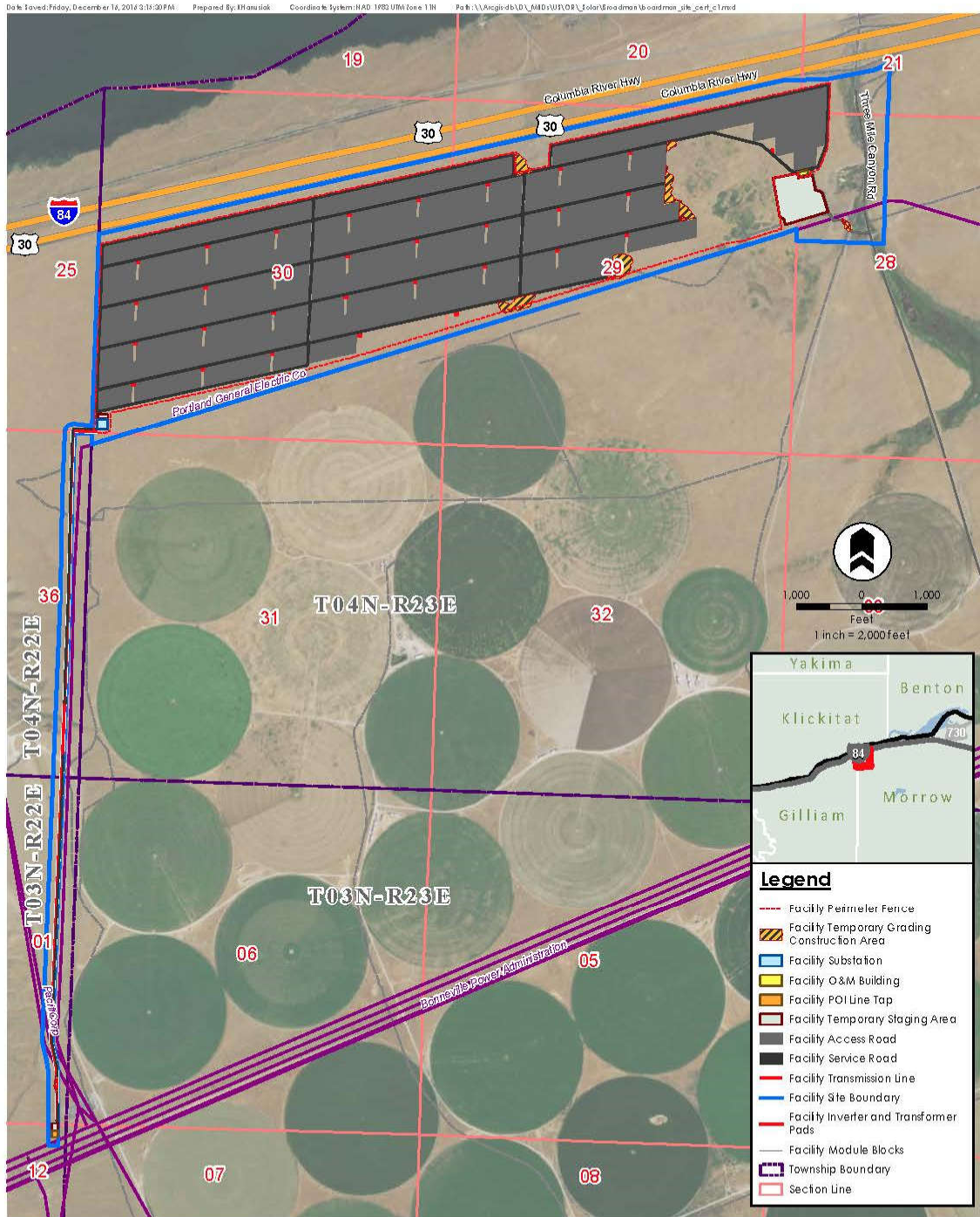
345-027-0313 - Certificate Expiration

If the certificate holder does not begin construction of the facility by the construction beginning date specified in the site certificate or amended site certificate, the site certificate expires on the construction beginning date specified, unless expiration of the site certificate is suspended pending final action by the Council on a request for amendment to a site certificate under OAR 345-027-0385(2).

RECOMMENDED COUNCIL ACTION

Because the applicant did not submit a request to extend the beginning construction deadline by February 23, 2024 as required by condition GEN-GS-01 of the First Amended Site Certificate, the site certificate has now expired. The Department therefore recommends Council issue an order terminating the Boardman Solar Energy Project Site Certificate per OAR 345-027-0110(9).

Approved Facility Layout



Facility Layout Rev. 00

Boardman Solar Energy Facility, Morrow and Gilliam Counties, Oregon December 19, 2016

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