



Oregon

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To: Energy Facility Siting Council

From: Chase McVeigh-Walker, Senior Siting Analyst

Date: July 5, 2024

Subject: Agenda Item B (Information Item): Wagon Trail Solar Project – Council Review of the Draft Proposed Order for the July 19, 2024 EFSC Meeting

Attachments: Attachment 1: June 14, 2024 Agenda Item B Staff Report
Attachment 2: [Draft Proposed Order](#) (via hyperlink)
Attachment 3: DPO Comments and Applicant Response

STAFF RECOMMENDATION

The Oregon Department of Energy's (Department) Draft Proposed Order (DPO) on the Complete Application for Site Certificate (ASC) for the Wagon Trail Solar Project (proposed facility) recommends that the Energy Facility Siting Council (Council) find that Wagon Trail Energy Center, LLC (applicant), a wholly owned indirect subsidiary of NextEra Energy Resources, LLC, provided sufficient evidence in the ASC to demonstrate that the proposed facility, with recommended conditions, satisfies the requirements of applicable Council standards and other state statutes and local ordinance provisions. The DPO is provided as Attachment 1 of this staff report.

PROJECT OVERVIEW

The proposed facility is a 500 megawatt (MW) solar photovoltaic energy generation facility. The proposed facility would be located within an approximately 7,450-acre (11.64 sq. miles) site boundary in Morrow County. Other proposed components include a battery energy storage system (lithium-ion batteries); power collection system; up to two substations; operation and maintenance building; Generator Step Up (GSU) transformer; 0.6 mile overhead 230 kV transmission line; perimeter fencing, access roads and staging areas.

DRAFT PROPOSED ORDER/PROCEDURAL HISTORY

The Department issued the DPO on May 7, 2024, along with a Public Notice of a 31-day comment period extending from May 7, 2024 through June 7, 2024, unless otherwise extended by Council. A public hearing on the DPO order was held on May 30, 2024 with opportunities for remote and in-person participation.

The Department received six comments during the 31-day comment period (open from May 7 through June 7, 2024) on the DPO and ASC. Five comments were provided by members of the public, and one was from the Special Advisory Group (SAG), Morrow County Board of Commissioners, appointed by the Council. On June 10, 2024, the applicant requested an extension until June 11, 2024 at 5:00 pm to respond to comments received. The applicant's response to comments were received on June 11, 2024, and were included in *Attachment 2* of the June 14, 2024 Agenda Item B Staff Report, which is included as Attachment 1 to this Staff Report.

At the June 14, 2024 EFSC meeting, the Department presented the DPO and issues raised in comments received on the record of the DPO public hearing. Council had the opportunity to review and deliberate potential changes in response to issues for inclusion in the proposed order at the meeting, but instead requested staff return for the July 19, 2024 EFSC meeting with additional details on its recommendations to address specific issues raised during the DPO public comment period.

STAFF EVALUATION OF DPO PUBLIC COMMENTS AND SUMMARY OF PRELIMINARY RECOMENDATIONS TO BE MADE IN THE PROPOSED ORDER

Significant issues raised in public comments included issues related to vegetation management and soil impacts for areas within the fenceline that are not occupied by permanent infrastructure, and the adequacy of elements of the Applicant's Goal 3 exception reasons justification. Council also requested additional details on staffs recommended findings that the proposed facility would not comply with the requirements of OAR 340-035-0035 (the noise standard) without additional mitigation.

A summary of all significant issues raised in the written and oral comments, and staff's preliminary recommendations for how to address the issues in the DPO was provided as *Table 1* of the June 14, 2024 Agenda Item B Staff Report (Attachment 1 of this Staff Report).

In addition to the recommendations provided in Table 1 of the June 14, 2024 Staff Report, the Department recommends Council consider the following recommended actions in their review of the DPO:

Soil Protection Standard (Section IV.D, p. 43-50)

- Developed in consultation with the Oregon Department of Agriculture (ODA), the Department recommends Council include additional measures for long term site stabilization and vegetation management.

Land Use Standard (Section IV.E, p. 50-118)

In the DPO, the Department recommended Council grant an exception based on three reasons: locational dependency; minimal impacts to agriculture within the subject tracts and surrounding area; agricultural related economic benefits; and, minimal impacts to other environmental resources projected by Council standards. On the record of the DPO, the SAG and Council members expressed concern about the reasons recommended by the Department as justifying an exception to Goal 3, particularly related to the evidence and analysis for the minimal impacts to agriculture within the subject tracts.

Based upon further review of the applicant’s analysis presented in ASC Exhibit K Attachment K-4 (Agricultural Economic Analysis Report by EcoNorthwest), the Department considers there to be impacts that should not be considered “minimal.” Therefore, the Department recommends Council find that “minimal impacts to agriculture” is not a reason to support a goal exception.

During the June 14, 2024 review of the DPO, Council raised questions about the difference between the mitigation approach proposed by the applicant and the applicant of the Sunstone Solar Project since both projects related upon an Agricultural Economic Analysis Report by EcoNorthwest. The Department reviewed the reports for both projects in efforts to identify any unsupported discrepancies.

Based upon review, the Department affirms that EcoNorthwest applied similar methodologies in their analyses of both projects. The Sunstone Solar Project is a larger facility (more than twice the size of Wagon Trail Solar, e.g., 1200 MW vs. 500 MW and impacting 9,400 acres of arable land vs. 3,684 acres). The Sunstone Solar Project proposes an \$11.1 million agricultural fund as mitigation – i.e., to support a Council finding under OAR 345-022-0030(4)(B) – that significant [agricultural] economic impacts will be mitigated. In contrast, the applicant for Wagon Trail Solar has proposed a \$500,000 fund, not as mitigation for a significant impact to agriculture but rather as an economic benefit to support the local agricultural economy – i.e., as a reason to support a Council finding under OAR 345-022-0030(4)(A). For these reasons, the Department considers that there are no unsupported discrepancies.

An outcome of the above review includes recommended amended condition language for Land Use Condition 14 and 15, to ensure that the mitigation funds (\$500,500) represented in the ASC are remitted prior to construction.

Noise Control Regulations (Section IV.R.1, p. 239-257)

- The Department recommends Council amend Recommended Noise Control Condition 1(C) to remove specific reference to “(IV) and (VI)” of OAR 340-035- 0035(1)(b)(B)(iii). This recommendation would maintain the applicant’s requirement to provide the Department with results of the noise analysis consistent with the requirements of OAR 340-035- 0035(1)(b)(B)(iii), but would eliminate potential confusion as to which sub sections apply.

NEXT STEPS

At the July 19, 2024 Council meeting, staff will continue its presentation of the DPO and issues raised in comments received on the record of the DPO public hearing to Council. This staff report is an update to the June staff report. Staff’s presentation for the July EFSC meeting will include all the information from the June staff report, but will provide additional recommendations and evaluation for select issues and standards, for Council’s consideration.

Within 30-days of Council’s review of the DPO, the Department must issue the Proposed Order. In conjunction with the issuance of the Proposed Order, the Department will issue a Notice of Proposed Order, notifying eligible individuals of their opportunity to request party or limited party status in the contested case proceeding. Only those persons who commented in person

or in writing on the record of the public hearing may request a contested case proceeding on the Proposed Order.