

Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Maxwell Event Center
145 N. First Place
Hermiston

August 22-23 2024



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 hearing, 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 G1 (Action Item)

Boardman to Hemingway Request for Amendment 2 Council Decision on Requests for Contested Case

Kellen Tardaewether, Senior Siting Analyst, ODOE

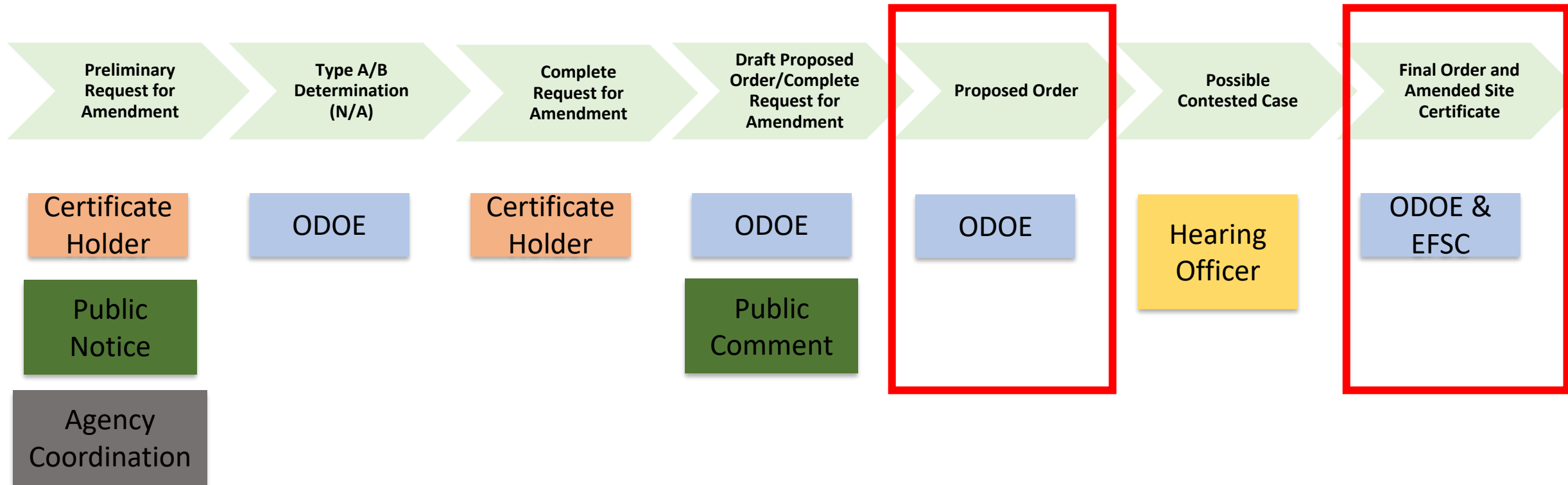
August 22-23 2024

Agenda Item Overview

- Thursday, August 22, 2024
 - Facility and Request for Amendment 2 (RFA2) Overview
 - Begin Review of Contested Case Requests
- Friday August 23, 2024
 - Continue Review of Contested Case Requests
 - Possible Final Decision on RFA2



Energy Facility Siting Amendment Process

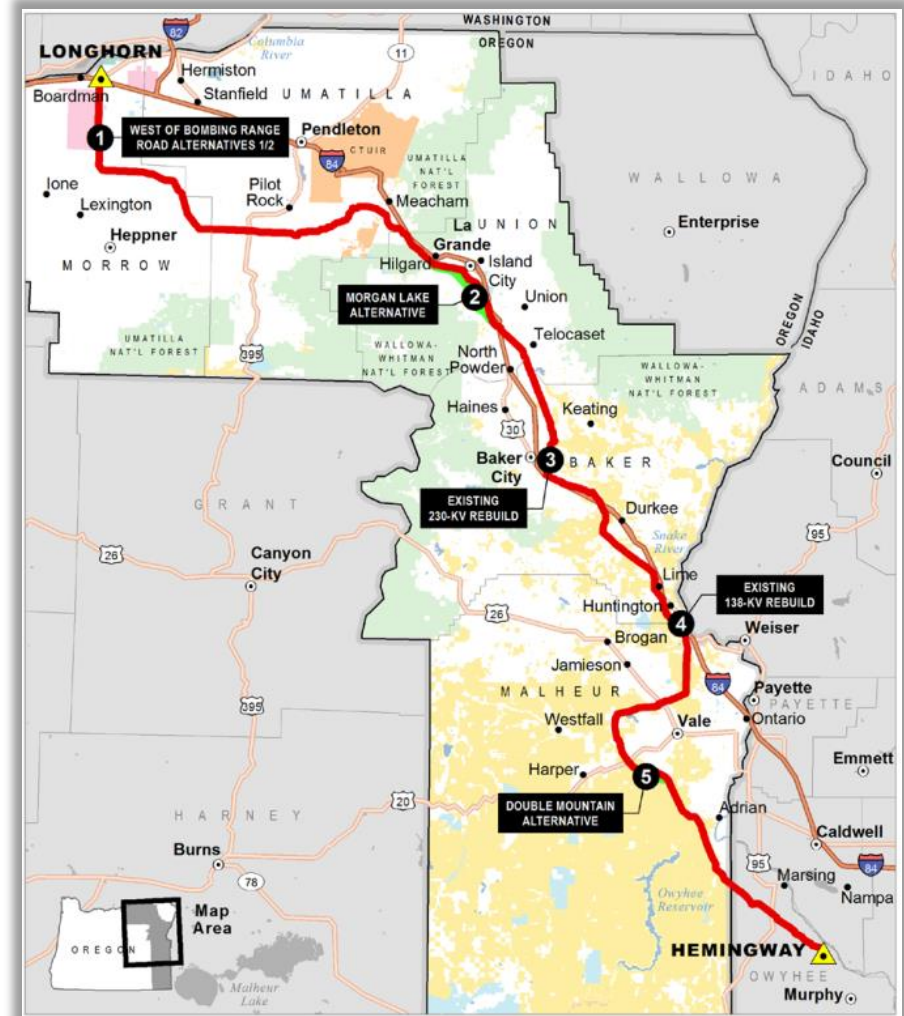


Boardman to Hemingway: Approved Facility Overview

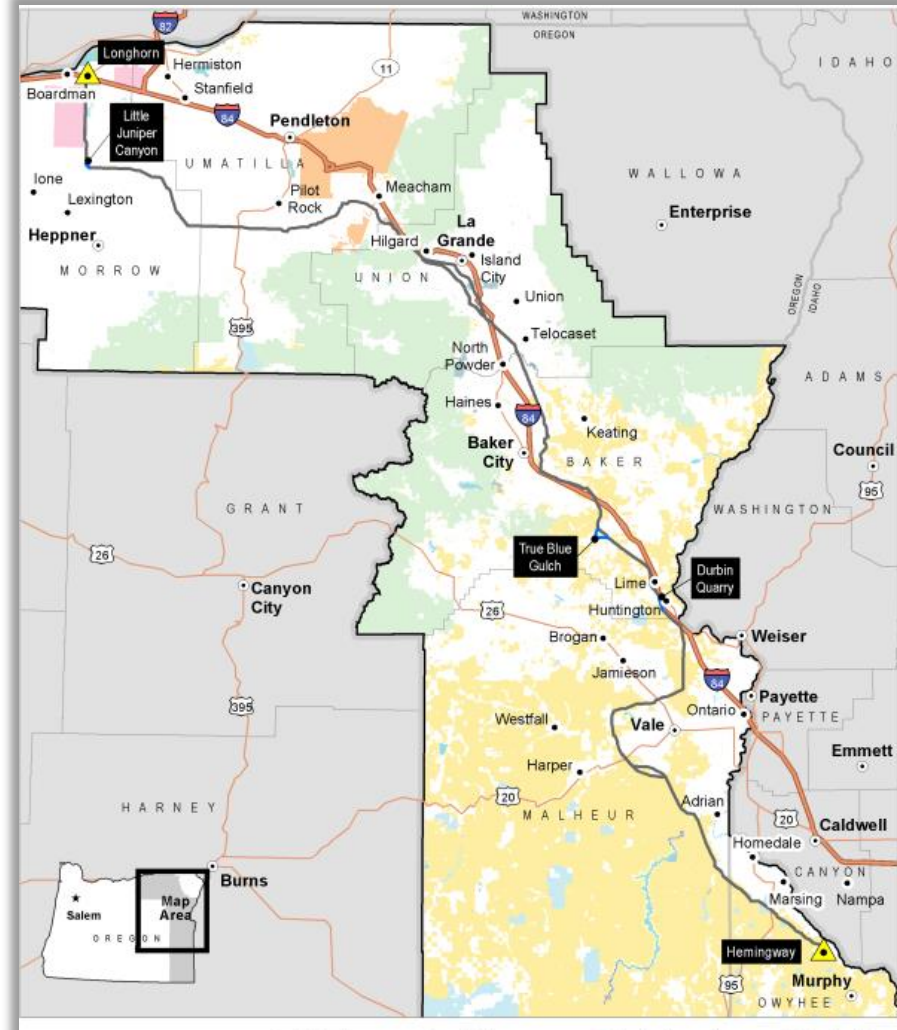
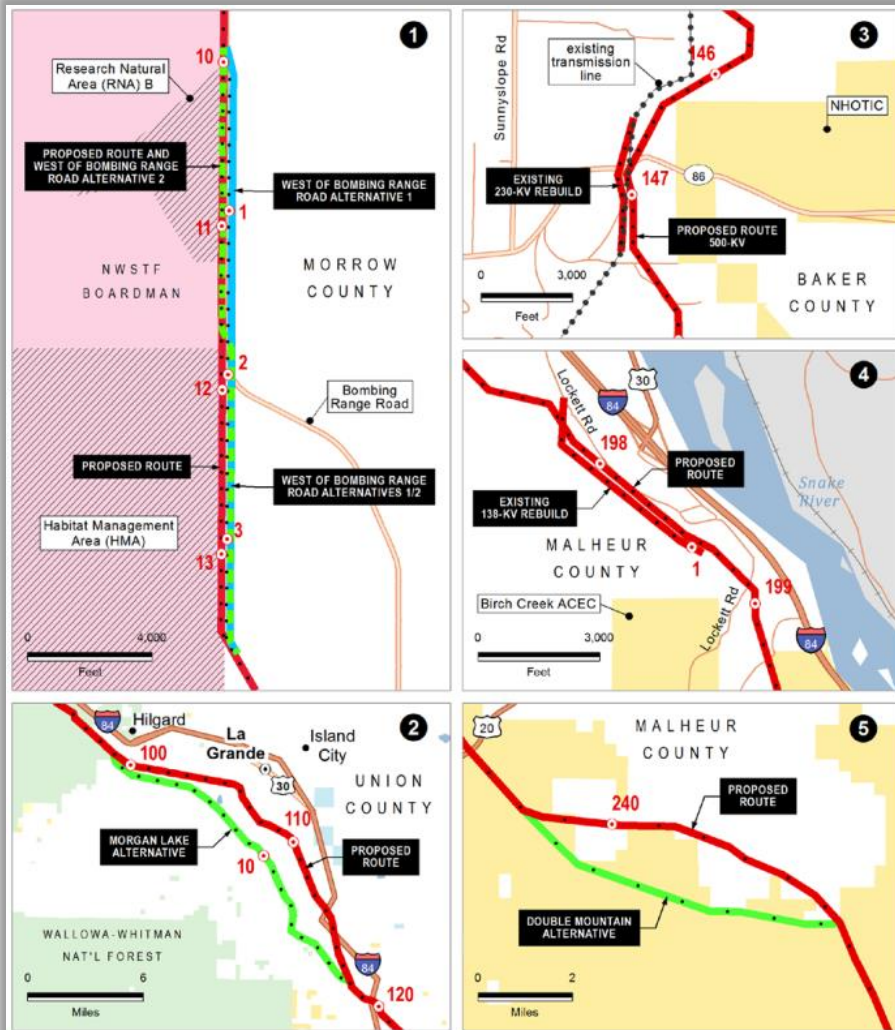
Certificate Holder
Idaho Power Company

Approved Facility
Approximately 273 miles of predominantly 550 kV transmission line, includes 8 alternative routes (ASC and RFA1) and related or supporting facilities

Facility Location:
Morrow, Umatilla, Union, Baker and Malheur Counties



Approved Facility Overview



Project Features

- Proposed Route
- West of Bombing Range Road Alternative 1
- West of Bombing Range Road Alternative 2

Land Status

- Bureau of Land Management
- Forest Service
- Military Reservation/Corps of Engineers
- Private
- State

Other Features

- Morgan Lake Alternative
- Alternative Detail Reference # (see Project Overview Map)
- Mileposts/Ten Mile Markers
- Mile or Ten Mile

Project Features

- RFA1 Alternatives
- Routes Approved in EFSC Site Certificate
- Stations

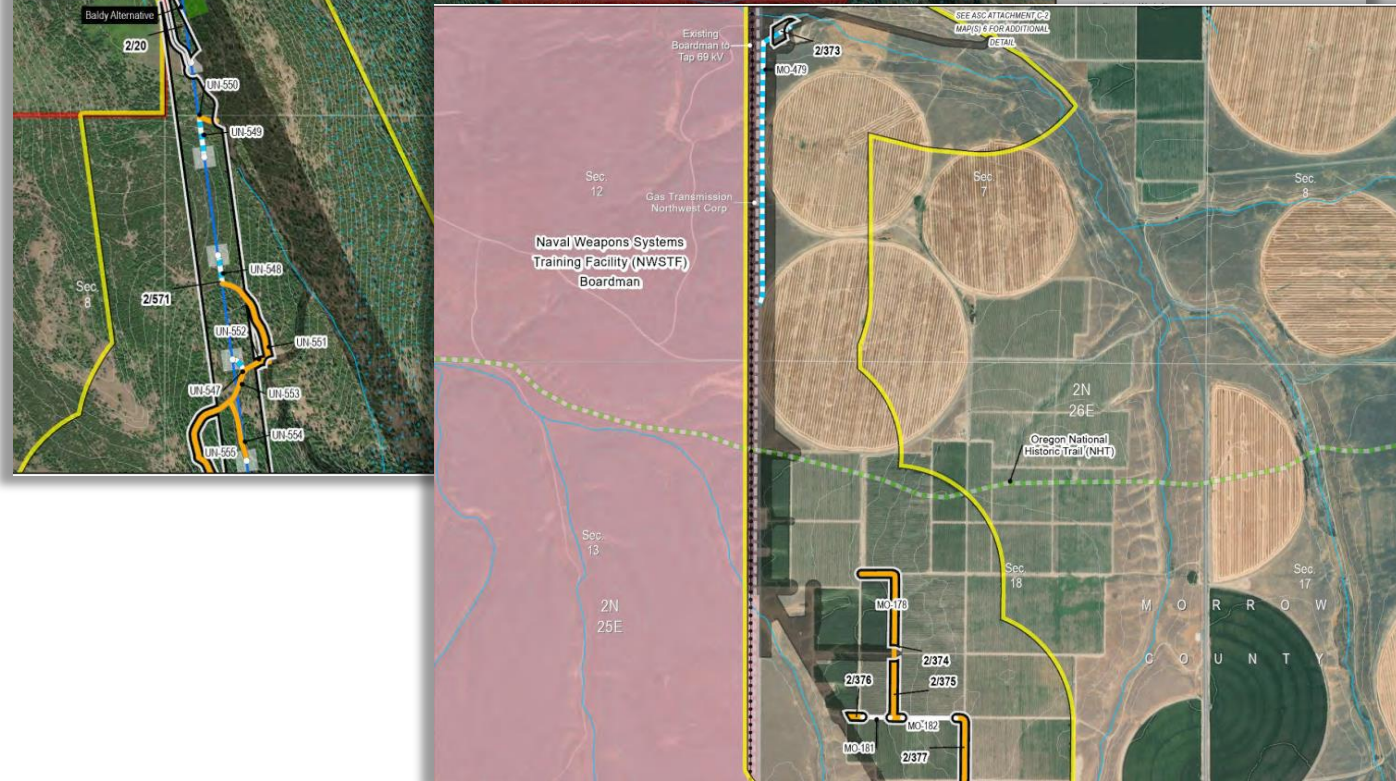
Land Status

- Bureau of Land Management
- Bureau of Reclamation
- Fish and Wildlife Service
- Forest Service
- Indian Reservation
- Military Reservation or Corps of Engineers
- Other Federal
- Private
- State or Local
- State or Local Parks and Recreation or Wildlife
- Water

B2H RFA2: Amendment Request

RFA2 seeks approval from EFSC for the following changes:

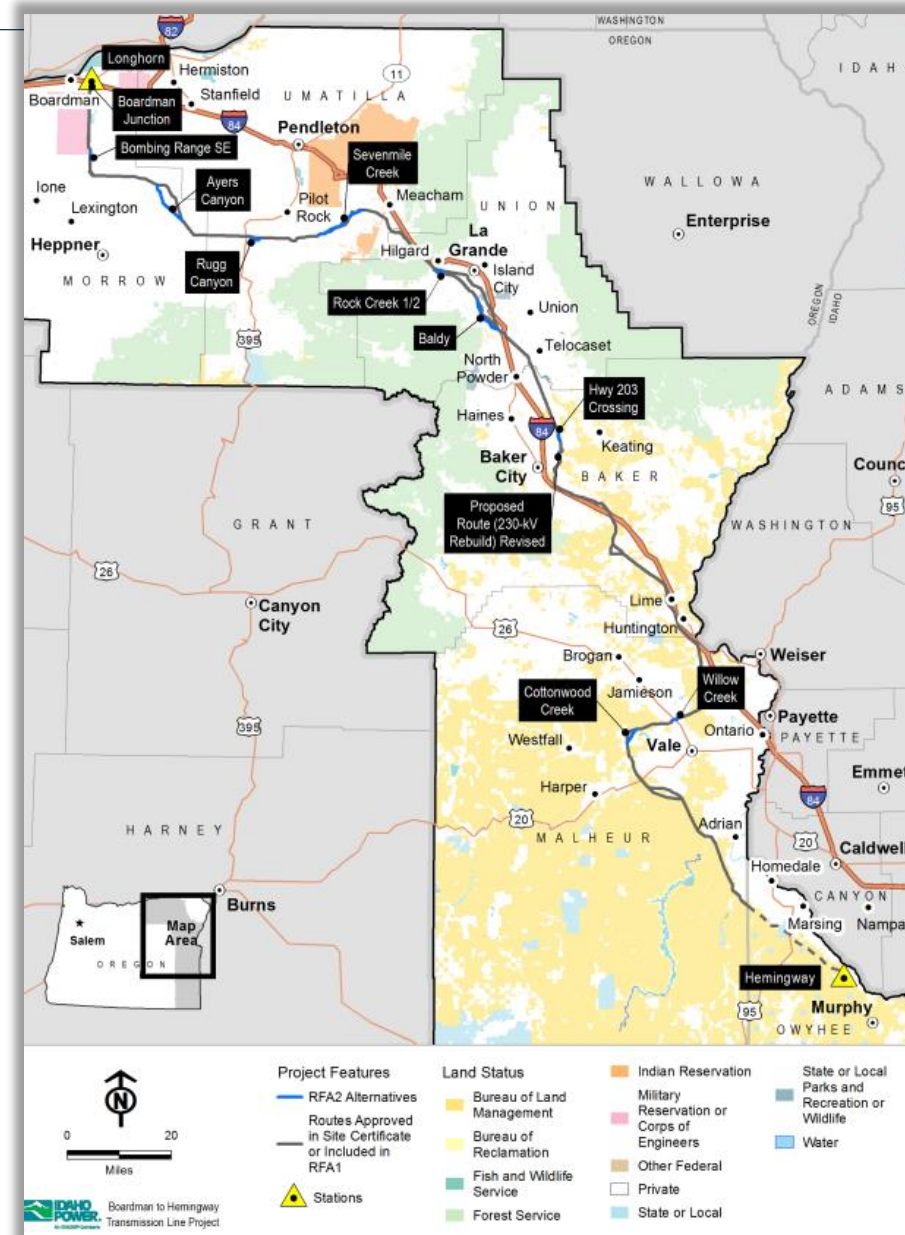
1. Redefine the site boundary and micrositing areas; and expand site boundary;



B2H RFA2: Amendment Request

RFA2 seeks approval from EFSC for the following changes:

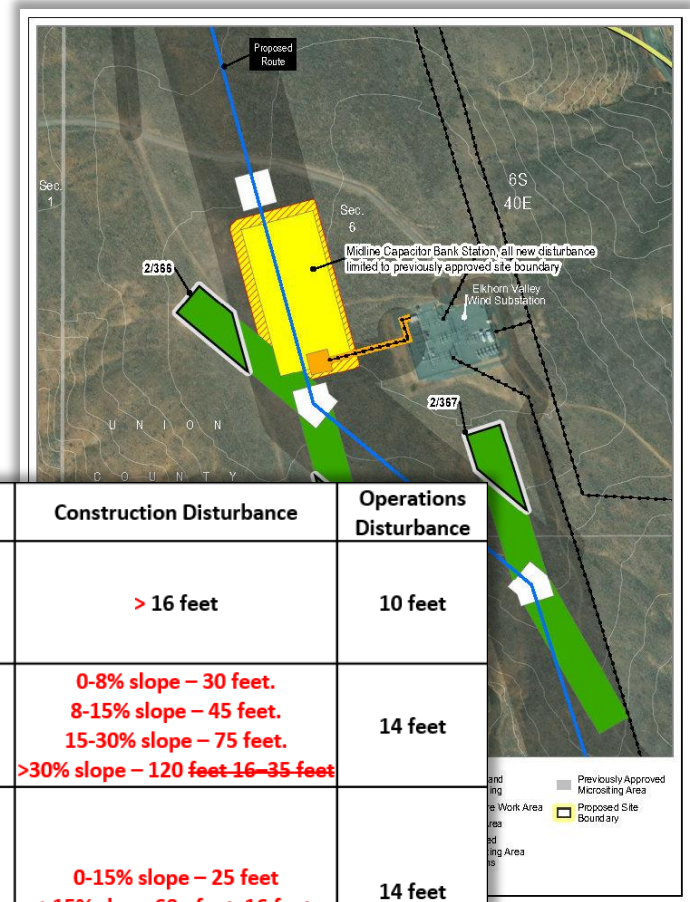
2. Add micro-siting areas for transmission line route alternatives, road and work area alternatives



B2H RFA2: Amendment Request

RFA2 seeks approval from EFSC for the following changes (continued):

3. Construct and operate a Midline Capacitor Station in Union County;
4. Increase the width of some temporary construction roads;
5. Amend language of site certificate conditions.



Access Road Classification		Micrositing Area	Construction Disturbance	Operations Disturbance
New Roads	Primitive	200 feet	> 16 feet	10 feet
	Bladed	200 feet	0-8% slope – 30 feet. 8-15% slope – 45 feet. 15-30% slope – 75 feet. >30% slope – 120 feet 16-35 feet	14 feet
Existing Roads - Substantial Modification	Substantial Modification, 21-70% Improved	100 feet	0-15% slope – 25 feet >15% slope 60 - feet 16-feet	14 feet
	Substantial Modification, 71-100% Improved	100 feet	0-15% slope – 25 feet >15% slope 60 - feet 16-30-feet	14 feet

B2H RFA2: Procedural History

Milestone	Responsible Party	Date
Preliminary RFA2	Cert Holder	06/30/2023
Request for Additional Information (RAI)	ODOE	08/29/2023 (ongoing)
Approval of Modified Analysis Area	ODOE	12/20/2023
Complete RFA2 Filed	Cert Holder	04/11/2024
Draft Proposed Order	ODOE	04/16/2024
Draft Proposed Order Public Hearing/Close of Comment Period	EFSC	05/31/2024
Deadline for Certificate Holder to Respond to Comments	Cert Holder	06/05/2024
EFSC Review of DPO, Public Comments, & Responses	EFSC Review of DPO & Public Comments	06/14/2024
Proposed Order	ODOE	06/28/2024
Deadline to Submit Requests for Contested Case	Public	07/29/2024
EFSC Review of CC and Possible Final Order	EFSC	08/22 and 08/23/2024

Contested Case Request Thresholds

EFSC Consideration of Issues in a Possible Contested Case

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

- that is within the jurisdiction of the Council;
- in person at the hearing or in a written comment submitted to the Department before the deadline of the public hearing;
- with sufficient specificity to afford the Council, the Department and the certificate holder an adequate opportunity to respond, including facts that support the person's position on the issue.

➤ If Council finds that the person requesting a contested case failed to comment in person or in writing on the record of the DPO public hearing or failed to properly raise any issue, as described above, the Council must deny that person's contested case request.

Contested Case Request Thresholds

EFSC Consideration of Issues in a Possible Contested Case

➤ To determine that an issue justifies a contested case proceeding, the Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24. If the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.

GENERAL STANDARDS FOR SITING FACILITIES

345-022-0000 General Standard of Review

345-022-0005 Agency Coordination

345-022-0010 Organizational Expertise

345-022-0020 Structural Standard

345-022-0022 Soil Protection

345-022-0030 Land Use

345-022-0040 Protected Areas

345-022-0050 Retirement and Financial Assurance

345-022-0060 Fish and Wildlife Habitat

345-022-0070 Threatened and Endangered Species

345-022-0080 Scenic Resources

345-022-0090 Historic, Cultural and Archaeological Resources

345-022-0100 Recreation

345-022-0110 Public Services

345-022-0115 Wildfire Prevention and Risk Mitigation

345-022-0120 Waste Minimization

Council Options on Contested Case Requests

- **Hold the Contested Case** – The request meets the requirements on the prior slide and raises a significant issue of law or fact that is reasonably likely to affect the Council’s determination on whether the facility, with the changes proposed by the amendment, meets applicable standards and laws.
- **Remand Proposed Order to Department** – Same as above but an amendment to the Proposed Order would resolve the significant issue of law or fact that is reasonably likely to affect the Council’s determination on whether the facility, with the changes proposed by the amendment, meets applicable standards and laws.
- **Deny Request for Contested Case** – If the Council finds that the request does not identify a properly raised issue that justifies a contested case proceeding, the Council must deny the request.



March Issue 1

Kevin March Issue 1:

Headwater and ephemeral streams are not accurately documented, will be impacted and are not mitigated under Fish and Wildlife Habitat and Threatened and Endangered Species standards and ODFW's Fish Passage Law.

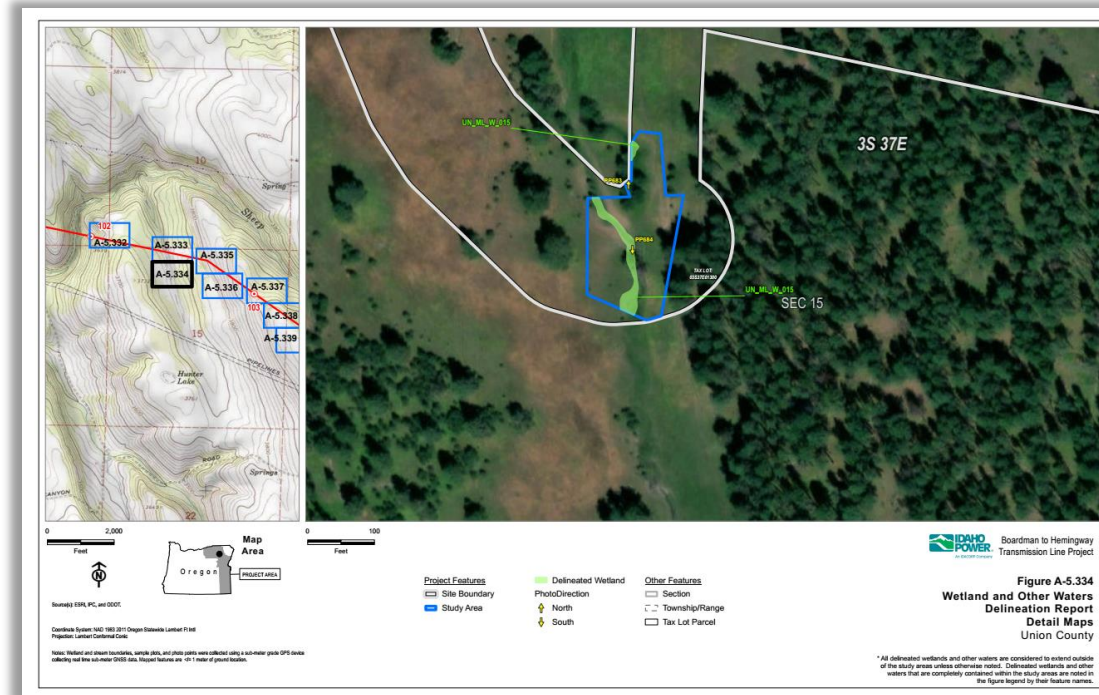
Department Recommendation:

- Properly Raised – Yes

March Issue 1

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Ephemeral streams are protected under Clean Water Act through the 1200-C permit. Existing Condition GEN-SP-01 requires that the certificate holder obtain/comply with 1200-C permit.
 - Ephemeral streams are evaluated in wetland delineations prepared for DSL. Existing Condition PRE-RF-01 requires that, prior to construction, the certificate holder conduct updated wetland delineation surveys.
 - The coordinates provided represent a location that was surveyed by the certificate holder in 2022 as part of a preconstruction requirement under PRE-RF-01.



Council Deliberation & Decision on March Issue 1

Gilbert Issue 1

Irene Gilbert Issue 1:

RFA2 Proposed Order fails to require a full review of the area added to the site boundary required by OAR 345-027-0375(2).

Department Recommendation:

- Properly Raised – Yes

Gilbert Issue 1

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - OAR 345- 027-0375(2)(a), the Proposed Order assesses whether the proposed expanded site boundary meets each of the Council’s standards in OAR 345 Division 22 and the applicable standards in Divisions 23 and 24.
 - This does not mean that the review done for the ASC must be re-done. The ASC and RFA1 approved facility are outside of the scope of RFA2, unless included in RFA2. The Council cannot reverse those final decisions.
 - Council rules do not require the entire 0.5-mile expanded site boundary to be field surveyed to demonstrate compliance with applicable Council standards.
 - This is consistent with other EFSC-approved facilities.
 - New General Standard of Review Condition 12 was provided in the proposed order to adopt certificate holder representation to include in any future ADRs, a landowner letter consenting to the change on their land.



Council Deliberation & Decision on Gilbert Issue 1

Gilbert Issue 2

Irene Gilbert Issue 2:

Certificate Conditions must require a bond amount that complies with the plain language and conditions of OAR 345-022-0000, OAR 345-027-0375, OAR 345-025-0006 and OAR 345-022-0050.

Department Recommendation:

- Properly Raised – Yes

Gilbert Issue 2

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Council previously found that the *form* of the bond, including the operational phased bonding approach, and the *amount* of the bond was adequate to restore the site to a useful, nonhazardous condition; RFA2 does not include any change to the form / phased bonding approach.
 - Issue litigated in contested case on ASC.
 - To address concerns about bonding approach, Council added a process by which it would periodically review the amount of the bond under Retirement and Financial Assurance Condition 5 which requires the certificate holder to provide EFSC and ODOE a report every five years, or more often upon request by Council.
 - No balancing determination is proposed for RFA2 and has never been evaluated under this standard by Council.



Council Deliberation & Decision on Gilbert Issue 2

Gilbert Issue 3

Irene Gilbert Issue 3:

RFA2 adds roads without fully evaluating the impacts they will have on resources or requiring timely and complete restoration.

Department Recommendation:

- Properly Raised – Yes

7. This issue raises a significant issue of fact or law

The addition of roads to the site of the B2H project inserts new hazards and impacts to the development requiring the scope of Council Review to address the requirements of OAR 345-027-0375(2)(c) requiring a determination that the entire facility complies with the applicable laws and council standards that protect a resource or interest that could be affected by the proposed change. The Oregon Department of Energy issued a document entitled “Version 2: July 2005 providing Guidance for Oregon Cities and Counties on Siting Energy Developments.” The RFA2 B2H Draft Site Certificate needs to include site certificate conditions that will provide for this compliance. ”

Rules which apply to the construction of roads include OAR 345-022-00030 Land Use Rules; ORS 345-022-0110 Public Service Condition providing that the development will not preclude the ability of public and private providers to provide storm water drainage, traffic safety, fire prevention and health care; ORS 345-022-0115 Wildfire.

Recommended Conditions to comply with the above Council Rules and consistent with the Model Ordinance for Energy Projects, Page 19 and 20:

A MODEL ORDINANCE FOR ENERGY PROJECTS

A Guide for Oregon Cities and Counties on Siting:

- Wind, Solar, Biomass, Geothermal and Cogeneration Projects
- Electric Power Transmission and Distribution Lines
- Natural Gas and Petroleum Pipelines
- Biofuel Production Plants

[VERSION 2: JULY 2005]



Gilbert Issue 3

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Land Use (OAR 345-022-00030) and Public Service standards (OAR 345-022-0110), do not require compliance with the 2007 ODOE Guidance for Oregon Cities and Counties on Siting Energy Developments; the Guidance documents makes suggestions to city and county governments and does not include siting standards.
 - All roads proposed for the facility will be permanent paths that will be used during construction and for operation, inspection, and maintenance of the transmission line after construction is completed.
 - Bladed access roads are not sufficient to accommodate all-weather use because the roadway surface is not capped with gravel or other material or compacted. Certificate holder does not construct all-weather roads to support transmission infrastructure because it is unnecessary for public safety and will result in greater environmental impacts.
 - Council's existing standards and conditions already take into account mitigation (including applicable plans), to mitigate potential impacts from facility roads.
 - Under Soil Protection Condition 1 [GEN-SP-01], the certificate holder must make any revisions to its Erosion and Sediment Control Plan the Department determines are necessary and implement the revisions within 14 days.



Council Deliberation & Decision on Gilbert Issue 3

Gilbert Issue 4

Irene Gilbert Issue 4:

The Application and Proposed Order fail to document that all council standards have been evaluated for the area added to the site boundary. Issues lacking documentation or a timeline for completion include: Habitat, mitigation, T&E, bat surveys, species specific surveys for all T&E that may be present at the site.

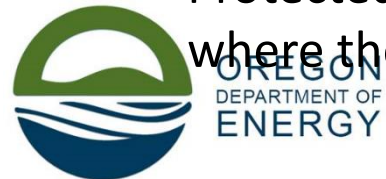
Department Recommendation:

- Properly Raised – Yes

Gilbert Issue 4

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Under OAR 345-027-0375(2)(c), for changes the certificate holder proposes other than the areas added to the site boundary, (e.g. midline capacitor station, wider temporary roads, site certificate conditions changes), the Council must find that the facility, with the proposed change, complies with the applicable laws or Council standards that protect a resource or interest that could be affected by the proposed change.
 - Under OAR 345-027-0375(2)(a), the laws and Council standards that would apply to an ASC would be applied to the areas added to the site boundary.
 - The Council does not have the authority to reverse or re-evaluate its prior decision, as it is maintained as a final decision through prior Final Orders.
 - State and federal mitigation sites are not considered protected areas under Council's standard unless they are designated under the rules.
 - Surveys of protected areas are not required to support a finding of compliance with the Protected Areas standard; surveys are required under other standards, which was conducted for RFA2 micro-siting areas and required under existing conditions.
 - Protected areas in Union County, including Ladd Marsh, were analyzed in the DPO/proposed order on RFA2, where the potential noise, traffic, and visual impacts to all protected areas are evaluated.



Council Deliberation & Decision on Gilbert Issue 4

Agenda Item A (Information Portion)

Sunstone Solar Project Application for Site Certificate Public Hearing on Draft Proposed Order Proposed Facility Overview

Christopher M. Clark, Senior Siting Analyst, Oregon Department of Energy

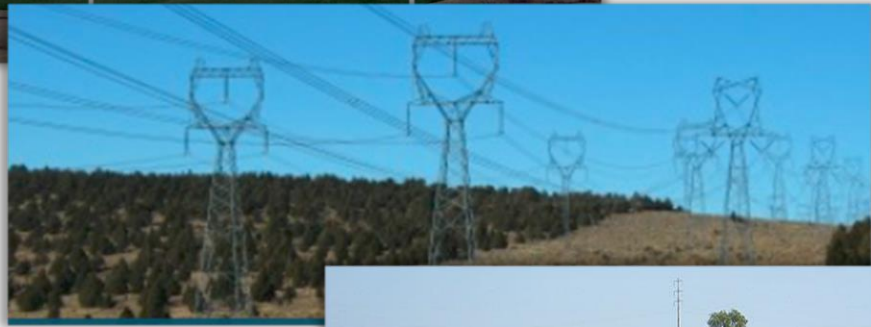
August 22-23, 2024



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

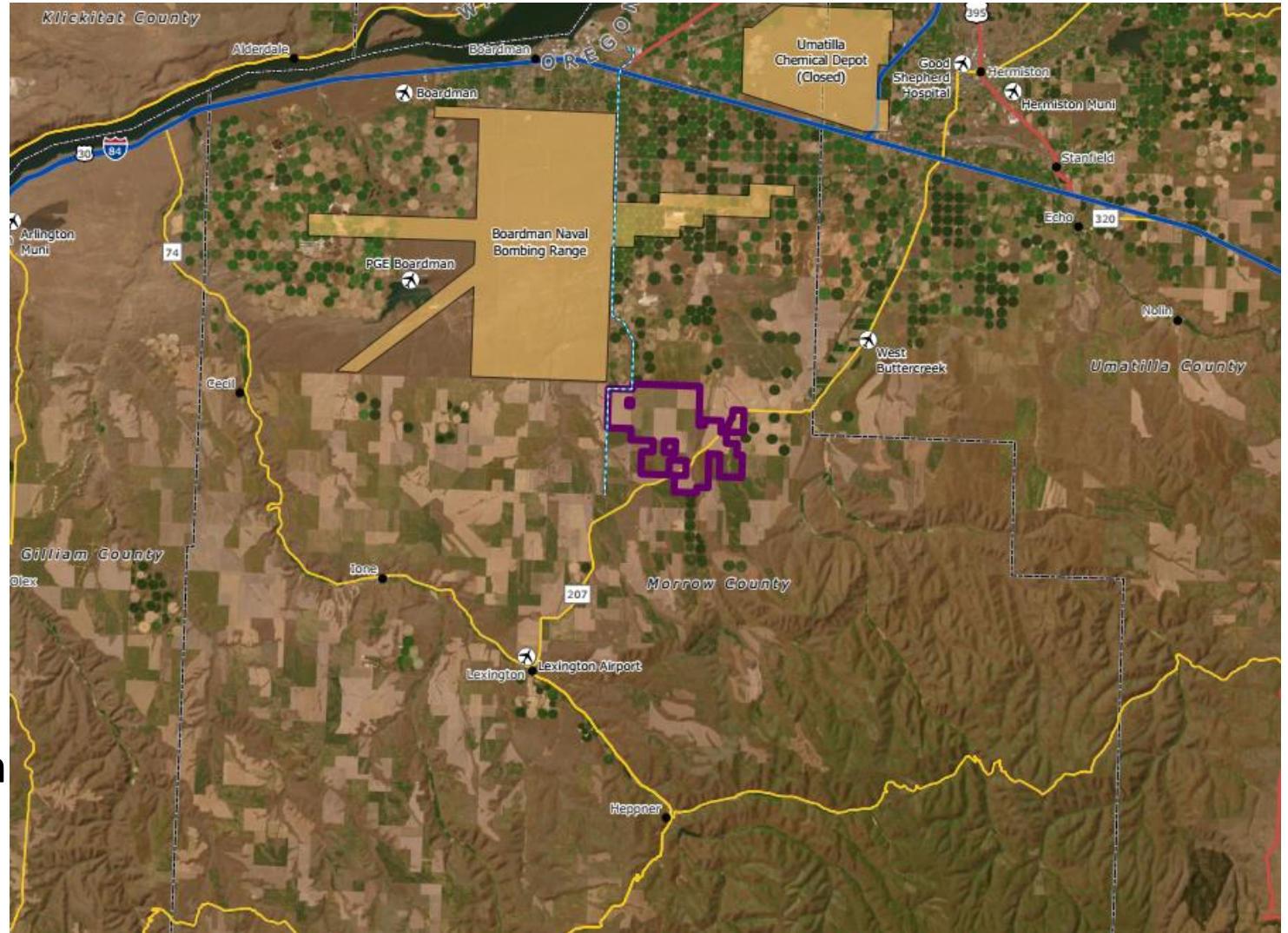
Sunstone Solar Project: Project Overview

Applicant: Sunstone Solar, LLC, a subsidiary of Pine Gate Renewables, LLC.

Proposed Facility:

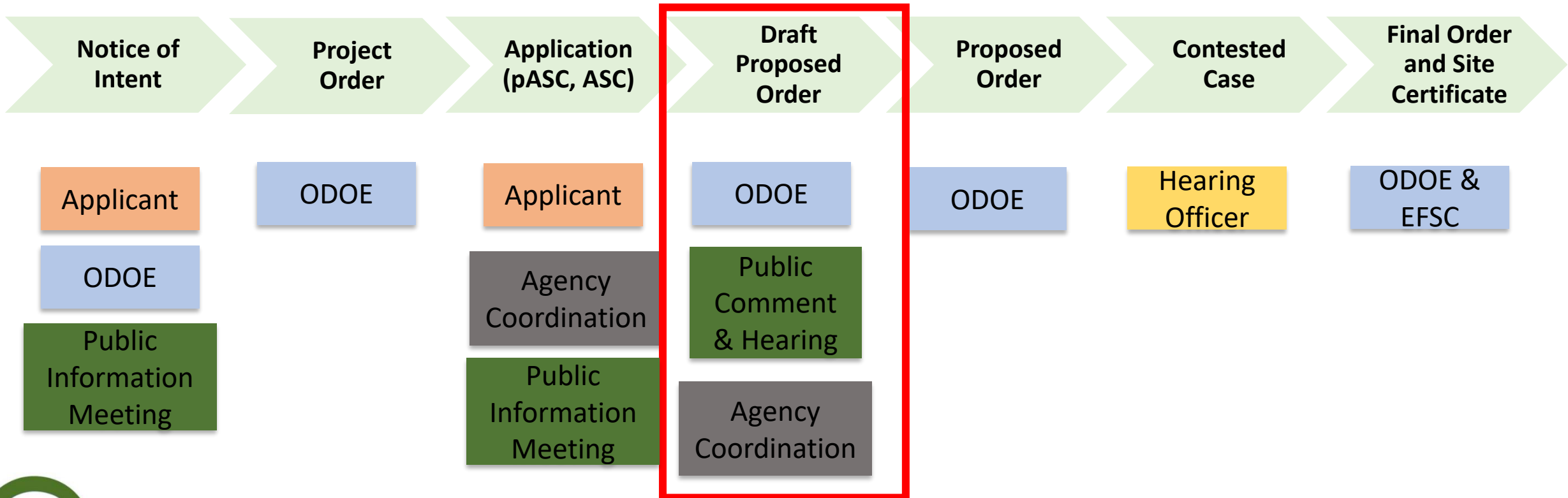
- 1,200 MW of solar PV arrays
- 7,200 MWh of battery storage
- 6 collector substations
- 4 O&M buildings
- 9.5 miles OH 230-kv Transmission
- Panel Storage
- Laydown yards
- Roads, fencing, etc.

Location/Site Boundary: The facility would occupy up to 9,442 acres within a 10,960-acre site in Morrow County.



Energy Facility Siting Process

Application for Site Certificate (ASC)



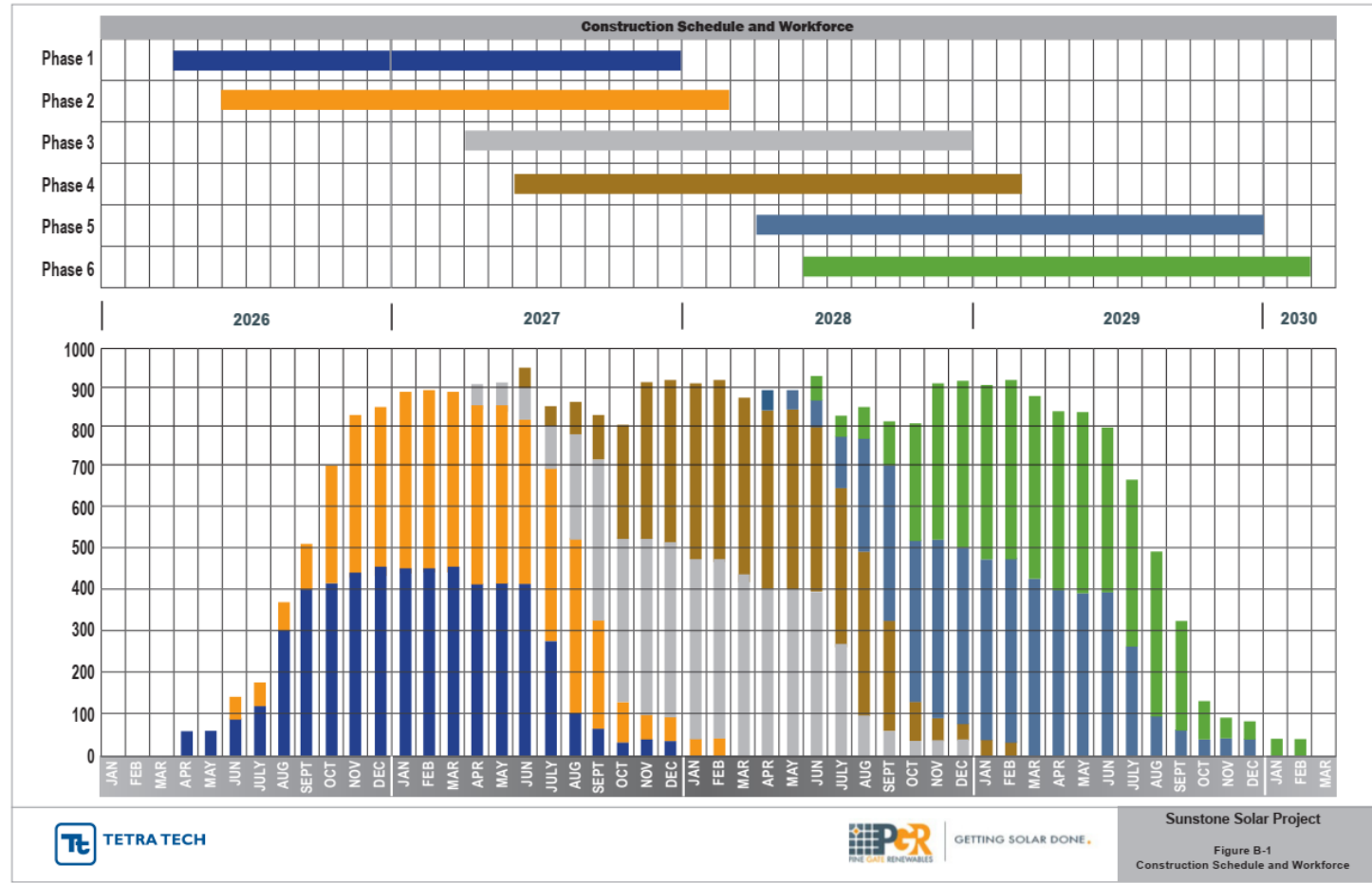
Sunstone Solar Project: Procedural History

Milestone	Responsible Party	Date
Notice of Intent (NOI)	Applicant	5/10/2022
Project Order	ODOE	9/26/2022
Preliminary Application for Site Certificate (pASC)	Applicant	8/8/2023
Application for Site Certificate (ASC)	Applicant	5/15/2024
Draft Proposed Order (DPO)	ODOE	7/12/2024
Draft Proposed Order Public Hearing	ODOE/EFSC	8/22/2024
Close of Public Comment Period	Public	8/22/2024
EFSC Review of DPO & Public Comments	EFSC	9/20/2024
Proposed Order and Notice of Contested Case	ODOE	TBD
Potential Final Decision	EFSC	TBD

Draft Proposed Order (Select Issues)

GENERAL STANDARD OF REVIEW (DPO section IV.A., pg. 23-31)

- Applicant proposed to construct facility in 6 phases over 47-month construction period.
- Applicant requests construction completion deadline to be 3 years after construction commencement deadline, or 6 years after approval.



Draft Proposed Order (Select Issues)

GENERAL STANDARD OF REVIEW (DPO section IV.A., pg. 23-31)

- Recommended General Standard Condition 2 requires:
 - Construction to begin within 3 years after approval
 - Construction of the final phase to begin within four years after approval
 - All construction to be completed within two years after construction of the final phase begins
 - Maximum of 6 years from approval for completion.

Draft Proposed Order (Select Issues)

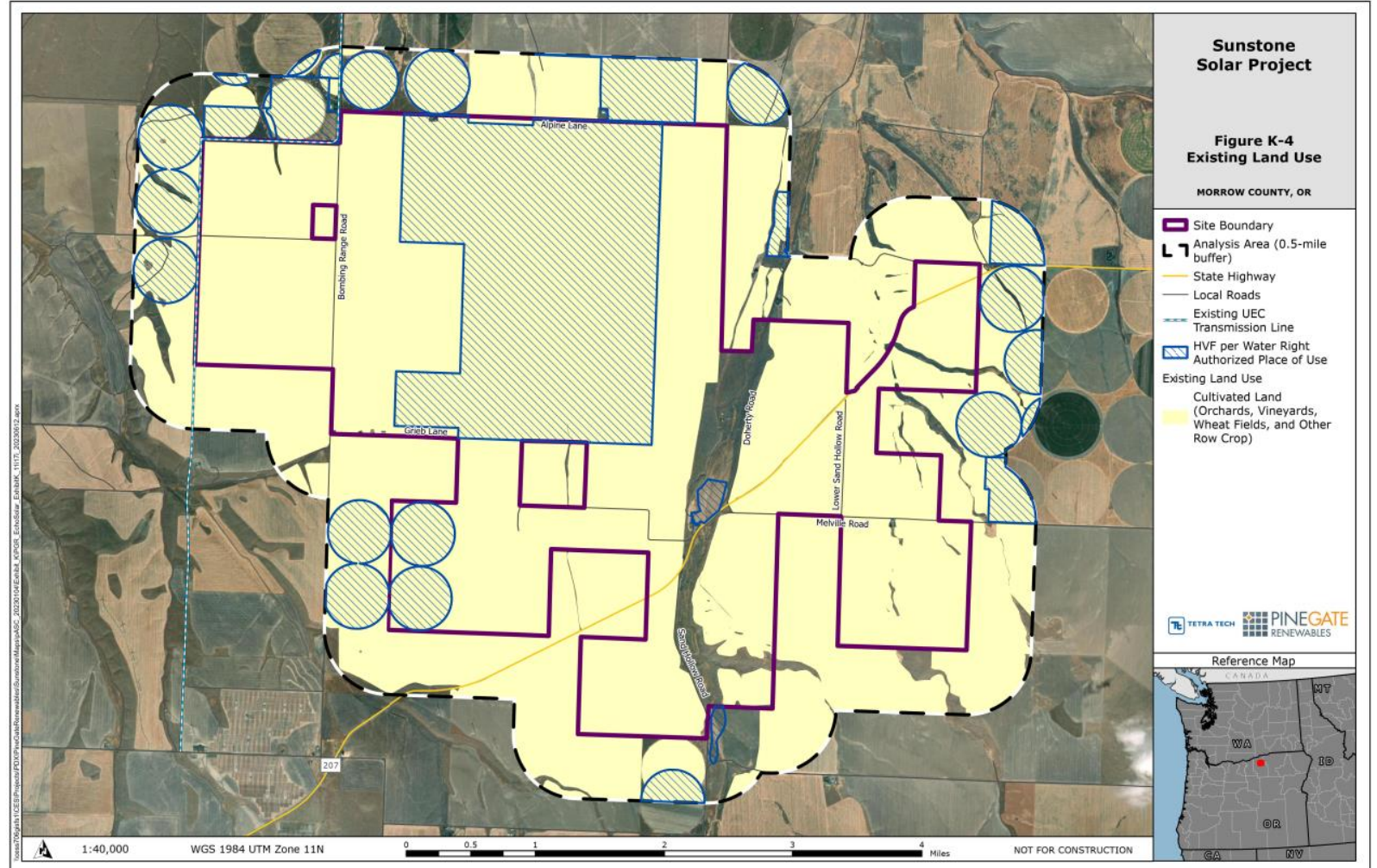
SOIL PROTECTION (DPO Section IV.D., pg. 47-53)

- Erosion, soil compaction, and fugitive dust impacts will result from construction activities, moderate to severely erodible soils, and semi-arid conditions at site.
- The applicant represents that it will minimize soil impacts by limiting grading to areas where foundations will be installed or where the slope and gradient are outside of racking tolerances for the installation of solar arrays.
- Recommended Soil Protection Conditions 1 and 2 would require applicant develop a Vegetation and Grading Plan that ensures grading activities are consistent with these representations.

Draft Proposed Order (Select Issues)

LAND USE (DPO Section IV.E., pg. 54-123)

- The proposed facility would occupy up to 9,442 acres of land zoned for Exclusive Farm Use, virtually all of which is currently used for dryland wheat production.
- The applicant has requested that the Council take an exception to Statewide Land Use Planning Goal 3.



Draft Proposed Order (Select Issues)

LAND USE (DPO Section IV.E., pg. 54-123)

The applicant provided the following reasons to support its exception request:

1. The facility is locationally dependent because of its proximity to existing energy infrastructure, the regional grid for interconnection, and major transportation corridors.
2. The facility is located on water-challenged land and therefore does not impact irrigated crops and imposes minimal direct impacts to high value agricultural soils due to lack of available irrigation water.
3. The facility preserves water supply in the Butter Creek Critical Ground Water Area for the benefit of other irrigators who rely on the same limited groundwater resource.
4. The facility creates local economic benefit and mitigates economic impacts to local agricultural economy.
5. The facility imposes minimal impacts to resources protected by Council standards.
6. The facility responds to important state and county goals and priorities.

Draft Proposed Order (Select Issues)

LAND USE (DPO Section IV.E., pg. 54-123)

- In support of Reason 4 (net local economic benefit), the certificate holder acknowledges that the removal of farmland from production will indirectly impact the local agricultural economy
- Certificate holder proposes to mitigate these impacts by contributing \$1,179 per acre of farmland occupied by the facility to an agricultural mitigation fund administered by the County.
- Total contribution for the maximum 9,400-acre buildout would be approximately \$11.08 million.

Draft Proposed Order (Select Issues)

LAND USE (DPO Section IV.E., pg. 54-123)

- The Department recommends that reasons 1 (locational dependance), 2 (water-challenged lands) and 5 (minimal impacts to other resources) justify taking an exception to Goal 3.
- The Department recommends that proposed agricultural mitigation under reason 4 (local economic benefit) should not be relied upon as a reason for the exception, but supports a finding that impacts on the local agricultural economy would be sufficiently mitigated under ORS 469.502(2)(c)(B) and OAR 345-022-0030(4)(c)(B).

Draft Proposed Order (Select Issues)

RETIREMENT AND FINANCIAL ASSURANCE (DPO Section IV.G, pg. 134-143)

- The Department recommends the cost that would be required for the State to retire the facility and restore the site would be approximately \$117.945 million, in Q1 2023 dollars.
- The applicant has provided a comfort letter from MUFG Bank, Ltd., stating that the bank would be comfortable with potentially providing a letter of credit of up to \$120 million to the applicant.
- The Department has recommended conditions to require the bond to be provided prior to the beginning of construction and maintained for the life of the facility.

Draft Proposed Order (Select Issues)

PUBLIC SERVICES (DPO Section IV.M., pg. 187-197)

- Applicant estimates there would be an average of 682 workers on site each day, with up to 950 workers during peak construction periods when multiple phases overlap.
- The Department recommends the influx of workers, and other construction related traffic, could potentially affect traffic safety and housing supply in the vicinity of the site.
- Recommended Public Services Conditions 1 and 2 require development and implementation of a Road Use Agreement with the County.
- Recommended Public Services Conditions 3 and 4 require the development and implementation of a temporary housing plan that identifies strategies to minimize impacts to local housing supply.

Public Participation at DPO Phase

- The issuance of the DPO notice initiates the opportunity for public comment on the ASC;
- 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)

- The Council will not accept comments on the ASC or on the DPO after the close of the public hearing unless an extension is granted.
- Only persons who comment on DPO during the comment timeframe are eligible to participate in the contested case proceeding.
- For consideration in the contested case, issues must:
 - Be submitted within the comment timeframe.
 - Be within the jurisdiction of the Council.
 - Be raised 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.

Comments Received To Date

- As of August 15, 2024, the Department had received 11 public comments supporting the Sunstone DPO ASC:
 - Butter Creek Spraying
 - Tim Winn
 - Blue Mt. Community College Foundation
 - Carol Dougherty
 - City of Heppner
 - US Representative Cliff Bentz
 - Heppner Chamber of Commerce
 - City of Boardman
 - Don Coats
 - Morrow S&WCD
 - SOLV Energy
- One additional comment from TC Energy identifies potential impacts to the GTN Pipeline which crosses the proposed site.
- The applicant also provided written comments regarding its request for an Exception to Statewide Planning Goal 3.

Agenda Item A (Hearing Portion)

Sunstone Solar Project Application for Site Certificate Public Hearing on Draft Proposed Order

Presiding Officer – Kent Howe, Chair, EFSC

August 22-23, 2024

Sunstone Solar Project: DPO Public Hearing

Consideration of Issues in a Contested Case

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

- that is within the jurisdiction of the Council;
- in person at the hearing or in a written comment submitted to the Department of Energy before the close of the public hearing;
- 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.

Sunstone Solar Project: DPO Public Hearing

Order of Oral Testimony and Comments for this Public Hearing

1. Applicant (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)

Sunstone Solar Project: 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 request for 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 christopher.clark@energy.oregon.gov or call (503) 871-7254 and provide the information, including spelling, in a voicemail.

Sunstone Solar Project: DPO 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.



DRAFT PROPOSED ORDER
PUBLIC HEARING



LOGAN STEPHENS

VP, Project Development

August 22, 2024



PINEGATE RENEWABLES



- Founded in 2014, privately held, headquarters in Asheville, NC
- Utility-scale developer and independent power producer (IPP)
- Extensive experience developing, financing, constructing, and operating solar facilities
- 275 full-time employees across the United States
- Closed more than \$6.5 billion of project financing and capital investment
- 100+ operating facilities and 20+ GW of projects in development across the U.S.
- 17 operating solar facilities in Oregon



- Solar generation facility with potential battery storage
- Maximum facility output: 1,200 MW
- Largest anticipated footprint: 9,442 acres
- Will interconnect to existing UEC transmission infrastructure
- Expected to be constructed in phases from 2026 to 2029
- Power will flow to BPA's regional transmission systems to help meet rising demand for clean energy in the region
- Estimated to generate up to \$593 million of tax revenues to Morrow County over the 40-year operational life
- Strategic engagement with SOLV Energy to construct the facility in partnership with local unions

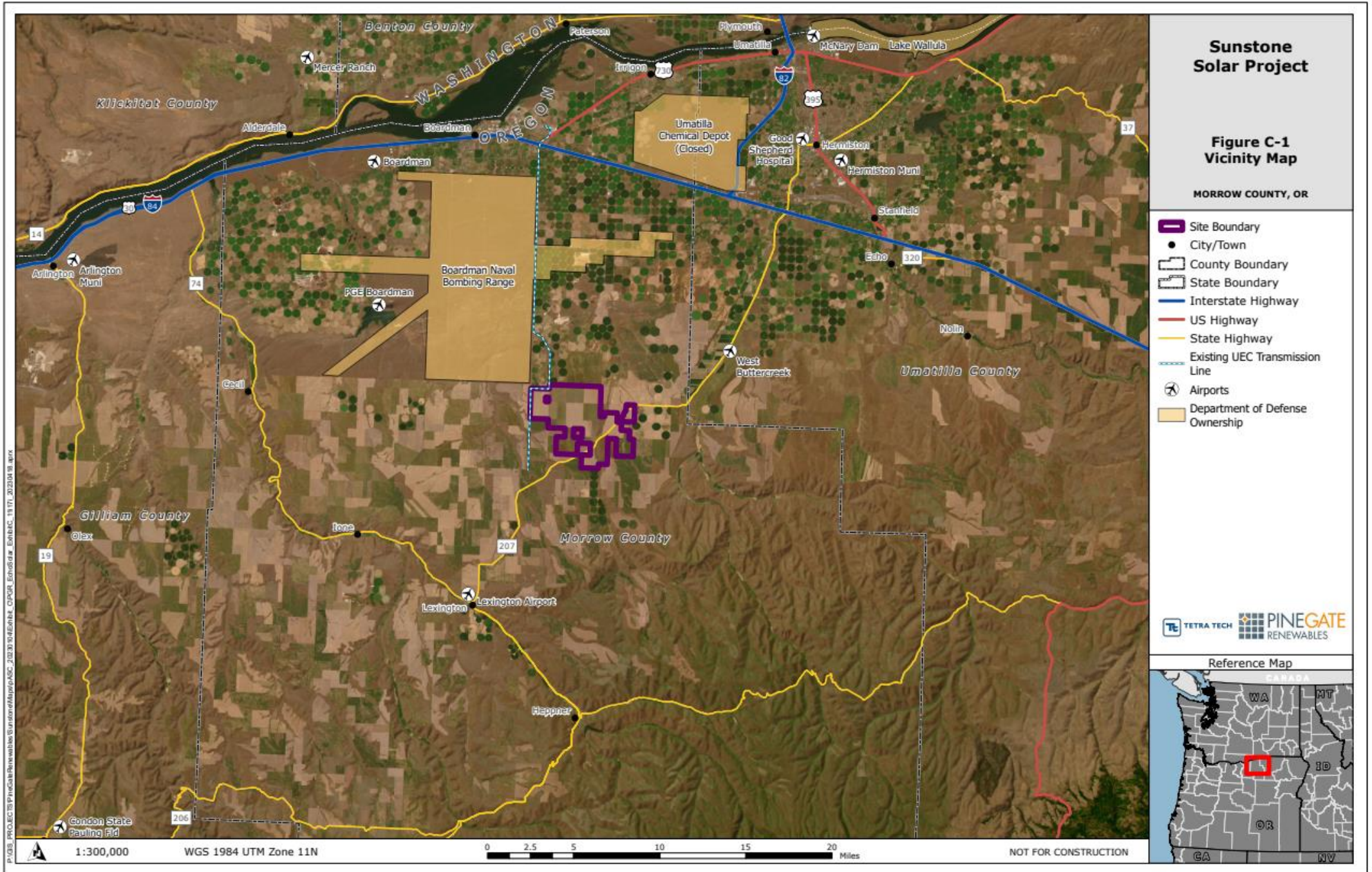
PINEGATE RENEWABLES





SUNSTONE SOLAR

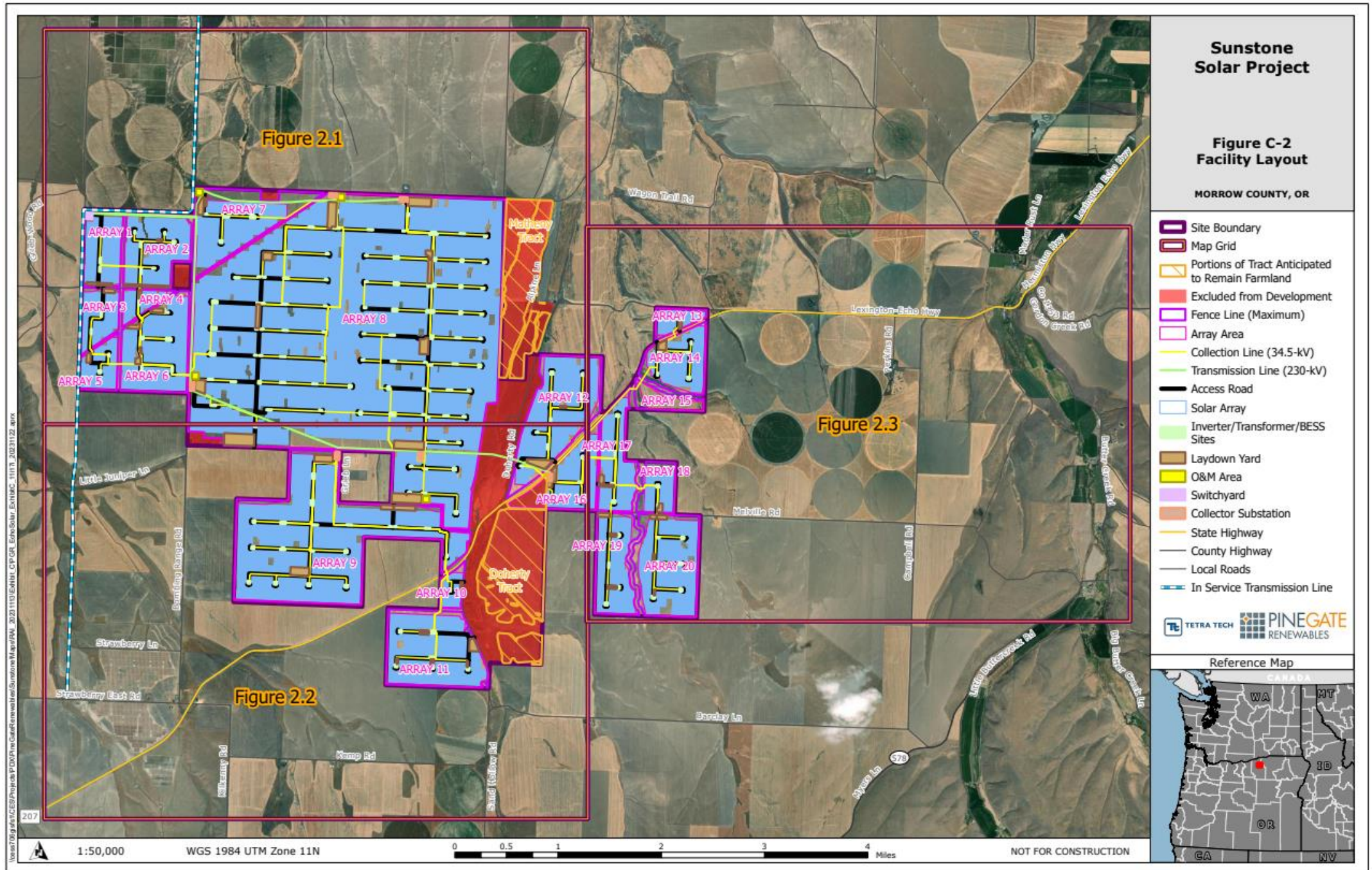
VICINITY MAP





SUNSTONE SOLAR

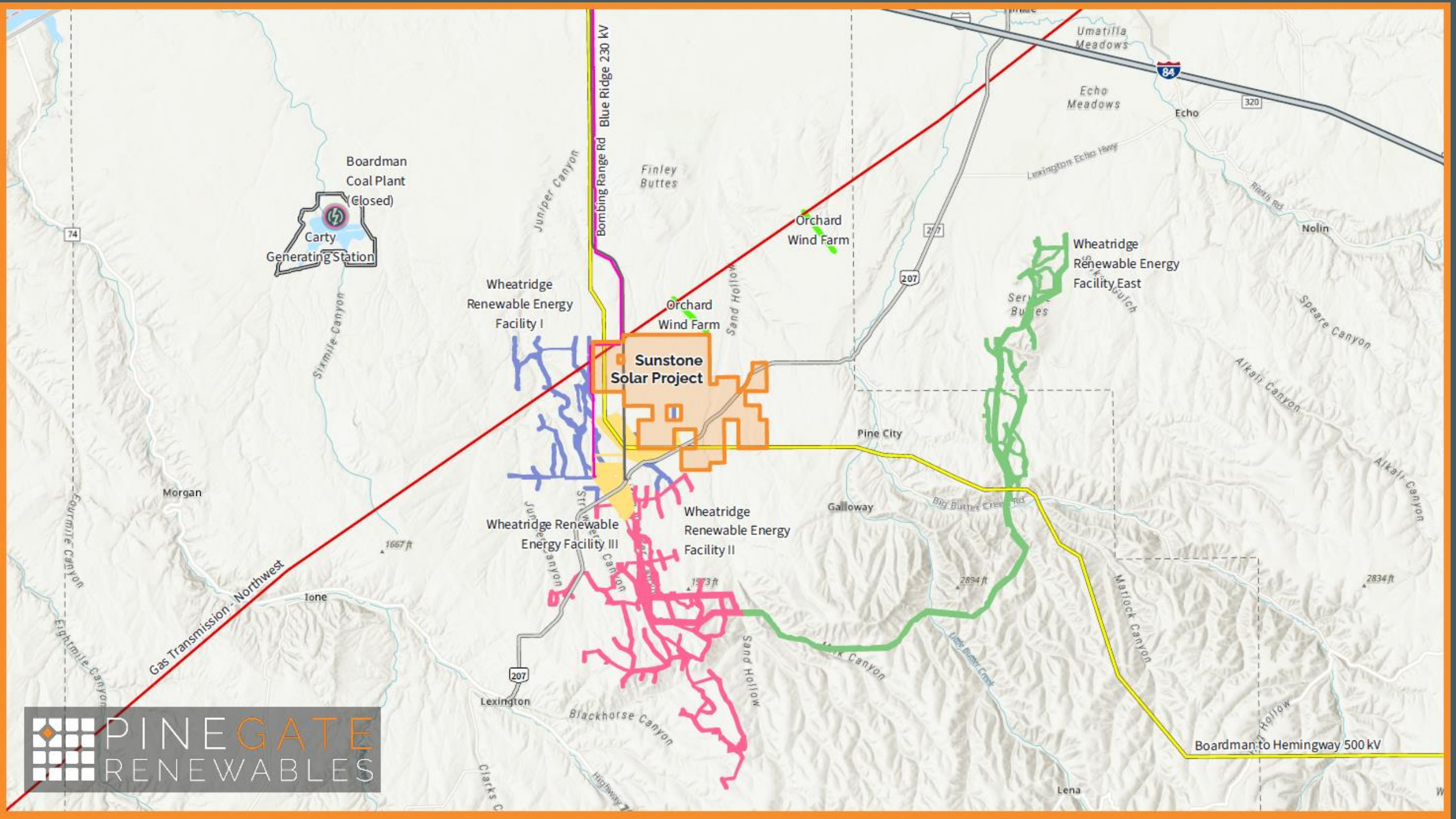
FACILITY LAYOUT





LOCATIONAL DEPENDENCY

- Sunstone will interconnect to an existing UEC 230 kV transmission line within the site boundary. No new transmission infrastructure outside the site boundary will be required.
- Existing transportation corridors provide access to the site, and no new or substantially modified public roads will be required.
- Sunstone will be co-located near other energy generation and transmission facilities, allowing for efficient use of transmission and other infrastructure.

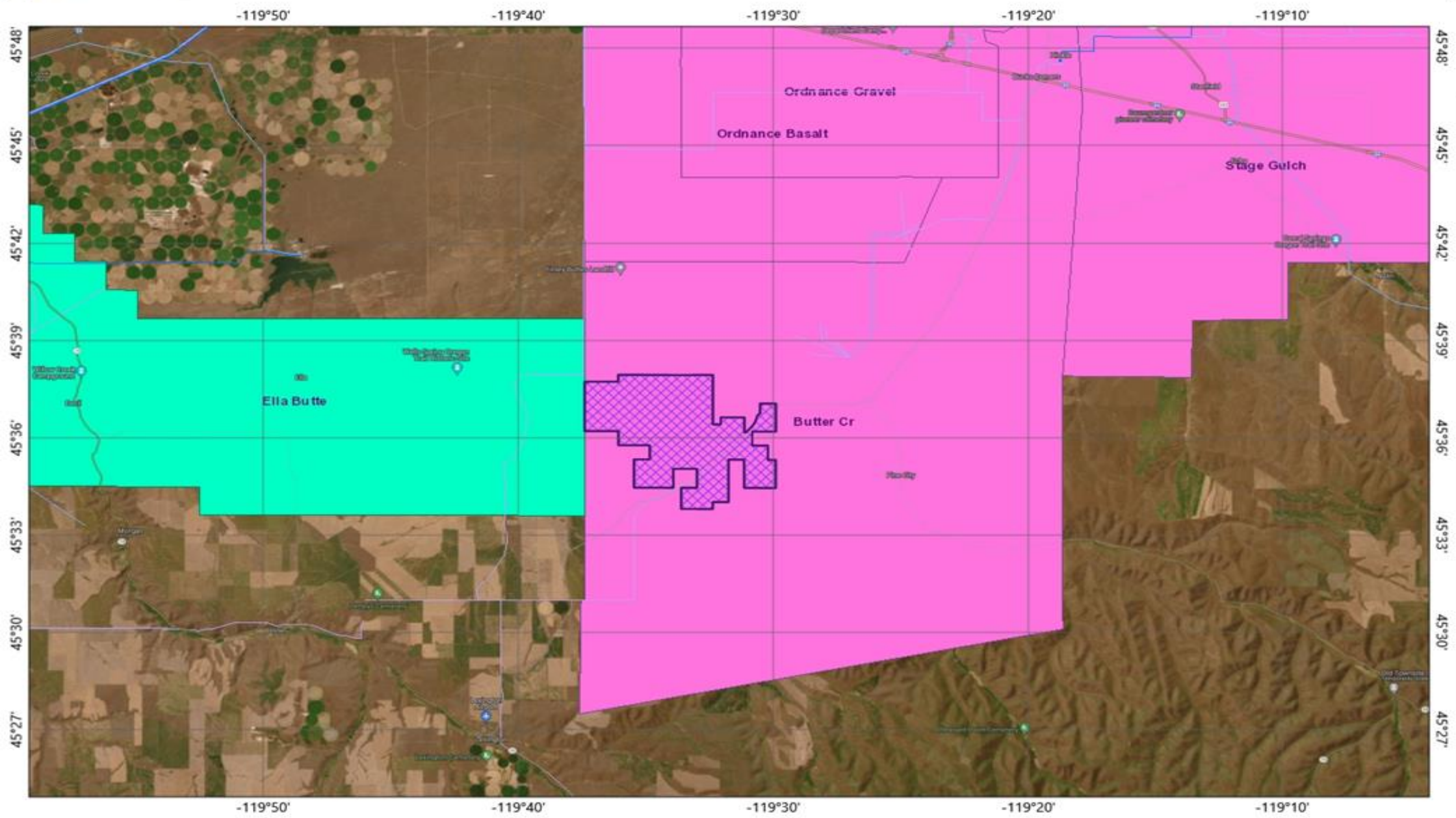




WATER CHALLENGED LAND

- Sunstone is located in the Butter Creek Critical Groundwater Area, which limits the total amount of water that can be withdrawn under existing water rights, prohibits new water rights from being granted, and establishes a system to request an annual allocation.
- Existing water rights within the facility footprint have been un-allocated, under-allocated, and unused in recent decades. Challenges securing adequate water have made use of existing water rights for irrigation impractical and uneconomical.
- Use of the site will not impact future irrigated crops.

Critical Groundwater Areas Sunstone



Legend

Transmission Lines

- Unknown
- 115 kV
- 115 - 230 kV
- 230 - 500 kV
- >= 500 kV

Groundwater Restricted Areas

- Classified
- Critical
- Groundwater Mitigation
- Limited
- Withdrawn

1: 288,895



This map is a user generated static output for reference only from Oregon Renewable Energy Siting Assessment Map Viewer. Data layers that appear on this map may or may not be accurate, current, or reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Notes
 The site is located within the west subarea of the state designated Butter Creek critical groundwater area.



MINIMAL IMPACTS TO RESOURCES

- Sunstone avoids all highly erodible soils, big-game winter range, threatened and endangered species habitat, wetlands, and jurisdictional waters.
- The facility is not expected to directly or indirectly impact protected areas, recreational opportunities, or scenic resources.
- Impacts to cultural resources of significance to Confederated Tribes of the Umatilla Indian Reservation have been mitigated, and all concerns have been addressed.
- Potential impacts to small amount of Category 4 & 5 habitat will be mitigated, if impacted.



LOCAL ECONOMIC BENEFITS

- Construction of the project will support up to 541 FTE jobs and \$28 million of labor income in Morrow County.
- Operation of the project will support up to 8 FTE jobs and \$531,000 of labor income in Morrow County.
- Modeled 40-year tax revenues from the site are expected to increase from \$3.3 million to \$593.3 million.
- Lease payments to landowners will help keep property in the families and enable investment in agricultural equipment and operations.



AGRICULTURAL MITIGATION PLAN

- Provides a \$1,179 per acre investment into a fund with local and state oversight, specifically for projects and programs that support Morrow County wheat farming.
- Projects and programs currently under consideration include a cost-share program for local farmers to acquire precision weed management equipment, and rebuilding and expanding the North Lex grain elevator.
- Modeled investment of \$9.6 million will generate at least \$11.1 million of benefits, for an overall net benefit to the local agricultural economy.

THANK YOU

Sunstone Solar Project: DPO Public Hearing

Written Comments

Written comments on the Application for Site Certificate and/or the Draft Proposed Order and may be submitted until the close of the Hearing. Written comments may be submitted:

- Via online siting comment portal: <https://odoe.powerappsportals.us/en-US/SitingPublicComment/>
- Via email: christopher.clark@energy.oregon.gov
- Hand delivery to one of the staff members or by mail to: Oregon Department of Energy; 550 Capitol St. NE; Salem, OR, 97301

Sunstone Solar Project: DPO Public Hearing

Public

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

7 Minute Time Limits

Presiding Officer or Council Members may ask clarifying questions.

How to Raise Your Hand in Webex:

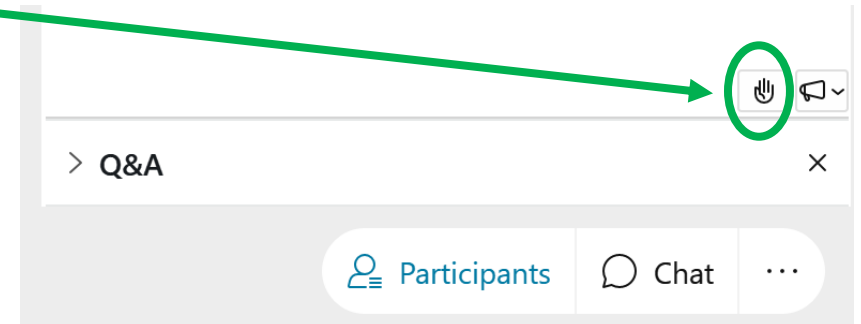
Webinar Participants

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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.

Sunstone Solar Project: DPO Public Hearing

Council

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

Sunstone Solar Project: DPO Public Hearing

Applicant's Response to Comments

The applicant 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

Sunstone Solar Project: DPO Public Hearing

Close of the comment period

RECESS UNTIL TOMORROW MORNING
AT 8:30 AM

Oregon Department of **ENERGY**

Energy Facility Siting
Council Meeting

Maxwell Event Center
145 N. First Place
Hermiston

August 22-23 2024



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 B (Action Item & Information Item)

Consent Calendar

- June & July Council Meeting Minutes
- Council Secretary Report

August 22-23 2024

Compliance Updates – Trojan ISFSI Incident

Certificate Holder is Portland General Electric

Date	Type	Details
20 June	Failed component	<ul style="list-style-type: none">• Battery charger for corporate communications equipment at administration building failed and smoldered. Subsequently, power was cut to the component.• No injuries to personnel.• Repair efforts are underway.• No impacts to the security posture or the safe storage of nuclear fuel.• Incident reported within 72 hours.• Incident is now closed.

Compliance Updates – Wheatridge Renewable Energy Facility East Construction Incidents

Parent Company of Certificate Holder is NextEra Energy Resources LLC

Date	Type	Details
11 July	Land Fire	<ul style="list-style-type: none">• Vehicle ignited grass along transmission corridor.• Fire was extinguished by a water truck already on the scene, no additional emergency response was required. Less than one acre burned.• No equipment or crops were damaged, and no personal were injured.• Incident reported within 72 hours. Incident is now closed.
26 July	Unauthorized work	<ul style="list-style-type: none">• Construction contractor (Blattner) crew member graded a strip of land within the 0.25-mile restriction buffer of a Swainson's hawk nest.• NextEra's onsite avian monitor immediately reported it and ordered activities to cease and remove equipment from area.• Monitoring continued until the nest occupancy status was established.• NextEra site management team followed-up with contractor staff to reiterate compliance with buffer requirements.• ODFW concurred nest was unoccupied.• Incident is now closed .

Compliance Updates – Wheatridge Renewable Energy Facility East Const. Incidents Cont'd.

Date	Type	Details
2 Aug.	Unauthorized work	<ul style="list-style-type: none">• Blattner constructed a temporary bypass road to maintain access around road construction activities without consulting NextEra staff or supervisor.• Activity was immediately reported by environmental monitoring team and all activities were stopped.• NextEra confirmed they only have survey data for Washington ground squirrels (none present), but do not have cultural or rare plant survey data for the impacted area. <p>Corrective Actions:</p> <ul style="list-style-type: none">• Blattner is being trained that no deviation to planned disturbance is to occur without NextEra approval.• All work within 50ft of corridor boundary will be surveyed and staked prior to disturbance.• Identification of habit type and category that was impacted and coordination with ODFW for habitat mitigation is pending.• CTUIR to determine any impact to cultural areas.• ODAg has confirmed no additional mitigation is required for potential impacts to Laurence's milkvetch.• Additional corrective actions may be required following agency coordination.

Compliance Updates – Wheatridge Renewable Energy Facility East Const. Incidents Cont'd.

Date	Type	Details
5 Aug.	Wetland impacted	<ul style="list-style-type: none"> • NextEra’s compliance monitors reported Blattner installed a culverted waterbody crossing within a wetland. The installation of the crossing occurred without the appropriate BMPs in place. • Work was stopped immediately. Site monitors are in the process of identifying the extent of any potential sedimentation. • DEQ and DSL have been notified. • Blattner installed appropriate BMPs and stabilized exposed soils. <ul style="list-style-type: none"> • Multiple layers of perimeter controls in areas where work encroaches within 50 feet of a surface water. • Hydromulch stabilization of disturbed streambanks and exposed crossing soils. • The Erosion and Sediment Control Plan will be evaluated and adjusted. At a minimum, the following additions will be made: <ul style="list-style-type: none"> • Include a typical drawing for a dam and pump around crossing. • Include a typical drawing for redundant BMPs when encroaching within the 50’ vegetated buffers around surface waters. • A review of waterbody specific permit requirements will be completed.

Compliance Updates - Wheatridge Renewable Energy Facility East Const. Incidents Cont'd.

Date	Type	Details
10 Aug.	Unauthorized work	<ul style="list-style-type: none">• NextEra's compliance monitors reported that road grading has passed the avoidance flagging placed around a rare plant population and encroached approximately 20 feet into the avoidance buffer.• Stakes/flagging were present but were bulldozed over. Previously erected stakes were found pushed to the edge of the disturbed area.• Pending notification to ODA and assessment of whether any rare plants were impacted.
14 Aug.	Unauthorized water use	<ul style="list-style-type: none">• OWRD issued a Notice of Violation on 14 Aug. to Blattner for violation of ORS 537.535(1) and 537.535(2).• Blattner had been withdrawing large amounts of water from at least two private wells that are not authorized for high volume use. Project is located in critical groundwater designated area.• ODOE and OWRD have issued a notice to cease all use of these water sources immediately.• NextEra is currently out of compliance with Site Conditions GEN-GS-03 and PRE-OE-07 of its Site Certificate

Agenda Item C (Public Hearing)

Carbon Offset Rulemaking

Chris Clark, Senior Siting Analyst, ODOE

August 22-23, 2024

CO2 Offset Rulemaking Public Hearing: Agenda

- Review of projected timeline for rulemaking
- Background and overview of proposed rule language
- Opportunity for public to make comments
 - In-person testimony (**Please fill out a comment card**)
 - Testimony via WebEx
 - Testimony via phone

Note: There will not be any Q&A offered at this hearing, however any questions related to this rulemaking can be directed to Tom Jackman at **tom.jackman@energy.oregon.gov**

CO2 Monetary Offset Rulemaking: Timeline

Council approves Carbon Offset rulemaking as part of 2024 schedule.	January 26, 2024
Council approval of proposed rules and authorization Notice of Proposed Rulemaking	July 19, 2024
Issue Notice of Proposed Rulemaking	July 27, 2024
Rulemaking hearing	August 23, 2024
Public comment deadline	August 26, 2024
Possible adoption of permanent rules	Sept 20, 2024

CO2 Offset Rulemaking Public Hearing: Background

- Applicants for gas energy facilities are required by law and rule to meet certain efficiency requirements.
- This is measured in allowable CO2 per kwh or per horsepower hour, depending on the application.
- Compliance can be demonstrated in several ways, including through a monetary offset, calculated in dollars per ton of CO2.

CO2 Offset Rulemaking Public Hearing: Background

OAR 345-024-0580

Existing Language:

“The monetary offset rate is \$4.27 per ton of carbon dioxide emissions.”

CO2 Offset Rulemaking Public Hearing: Background

Proposed Rules

The proposed rules increase the rate by the maximum allowable **50%**, which will take the existing rate of **\$4.27** → **\$6.40** per ton of carbon.

CO2 Offset Rulemaking Public Hearing

Prior to testifying, state the following:

- Full name with spelling
- Name of organization or group if you are representing one
- Provide any written comments or supplemental materials to a staff member

CO2 Offset Rulemaking Public Hearing

Written Comments

Written comments on the CO2 Offset rulemaking may be submitted until 5:00 pm on August 26, 2024. Written comments may be submitted:

- Via online siting comment portal: <https://odoe.powerappsportals.us/en-US/SitingPublicComment/>
- Via email: efsc.rulemaking@oregon.gov
- Hand delivery to one of the staff members or by mail to: Oregon Department of Energy; 550 Capitol St. NE; Salem, OR, 97301

How to Indicate Your Interest in Commenting:

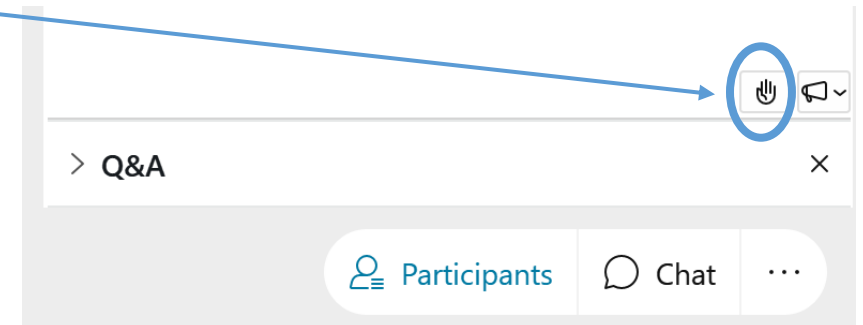
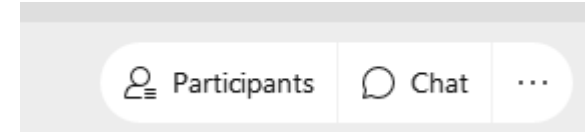
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Agenda Item D (Information Item)

The Climate Trust Annual Audit

Todd Cornett, Assistant Director for Siting/Council Secretary, ODOE

The Climate Trust 5 Year Report

Kyler Sherry, Program Manager, The Climate Trust

August 22-23 2024

The Climate Trust Financial Audit

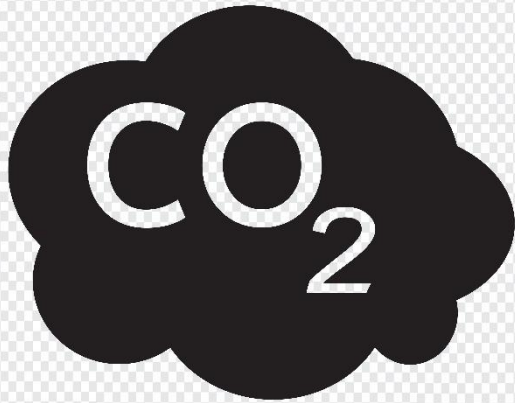
ORS 469.503(2)(e)(N)(iv)

- **Purpose of Audit** – Maintaining “Qualified Organization” status
- **Threshold** – Use of funds conforms with generally accepted accounting procedures
- **Audit Findings** – as of December 31, 2023 and 2022, The Climate Trust was in accordance with accounting principles generally accepted in the United States of America
- **Conclusion** – The Climate Trust continues to meet this requirement to maintain “Qualified Organization status



The Climate Trust Five Year Report

ORS 469.503(2)(d)(C)



- **Purpose of Five-Year Report**

- Maintain “Qualified Organization” status
- Provide information about The Climate Trusts activities related to implementation of the Council’s Carbon Standard
- Use information from the report to make recommendations to the Legislature

Fifth CO2 Standard Performance

August 23rd, 2024

Kyler Sherry
Chief Operating Officer



About TCT

- Non-profit founded in 1997
- 26+ years of experience in carbon markets
- Project developer, funder and supplier
- Avoided conversion of grasslands, improved forest management and reforestation
- Utilizing carbon markets to scale nature-based solutions



The Climate Trust

- Non-profit project developer and offset supplier
 - Voluntary and compliance markets
 - 120 projects supported, \$85 million in financing
- Portland, OR-based with staff across US
- Non-profit established in 1997 under Oregon CO₂ Standard
 - Manage offset acquisition programs and offset portfolio supplier



Voluntary Carbon Market (US)

Buyers voluntarily purchase offsets and invest in natural climate solutions

Registries

- Non-profit structure keeps focus on the mission
- Transparency is key – public comment process for rules & updates, no black boxes
- Science based – technical development & review
- Third-party project audits (verifications) required
- Very responsive to recent market criticisms – everyone wants to improve and innovate better solutions

Ecosystem of project developers, consultants, rating agencies, etc.

OR CO2 Standard supports VERA, ACR and Climate Action Reserve



General Demand Drivers Impacting Credit Price and Transaction Volume

- Project type
- Project co-benefits (e.g. community impacts, conservation beyond carbon, etc.)
- Credit type: Reduction or Removal
- Charisma
- Location or similarity business
- Risks

Makes Oregon based projects competitive



Negative Press & Market Evolution

Bloomberg (ACR IFM), Guardian (Corporate Claims, REDD+), John Oliver (repeated Bloomberg)

Criticisms centered around:

- Additionality & over crediting: Could have vs. would have
- Social impact (REDD+): neoliberal critique, insufficient benefit sharing, abuse
- Corporate claims: What can you say or not say? Net zero? Carbon Neutral? Etc.

Articles cherrypicked poor projects but spurred healthy debate

Evolution in additionality and community safeguards

- Robust registry responses



VCM Response & Scale

Taskforce on Scaling Voluntary Carbon Markets

- Roadmap to scale, broad stakeholder support

Integrity Council for Voluntary Carbon Markets (IVCVM)

- Core Carbon Principles (CCPs)
- Assessment Framework
 - Assesses programs and credit categories to CCPs

Voluntary Carbon Market Integrity Initiative (VCMI)

- Claims code of practice

Science Based Targets Initiative (SBTi)

- Allowed for beyond value chain- exploring Scope 3 use

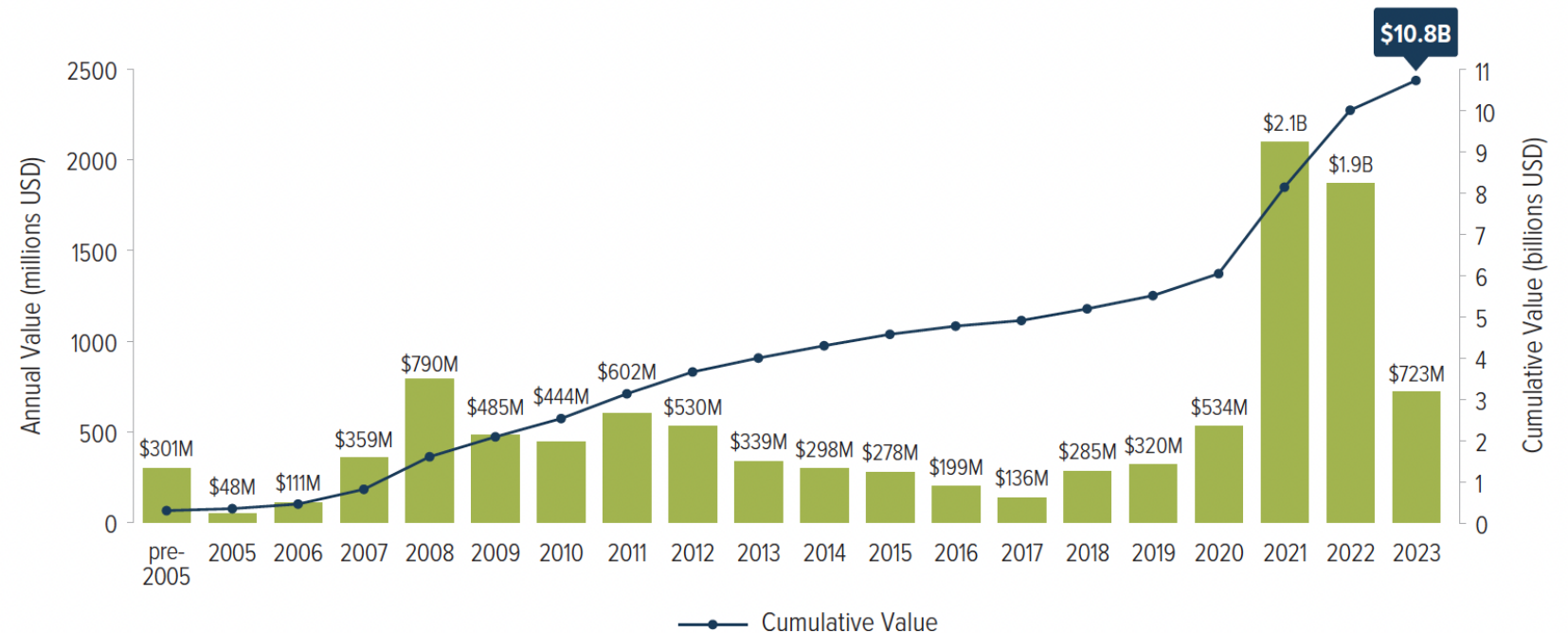


Voluntary Carbon Market Demand

Figure 1. Voluntary Carbon Market Size, by Value of Traded Carbon Credits, pre-2005 to 2023

Value

- Volume down
- Offset prices remain elevated “flight to quality”
- Forecast: Consensus and experience is corporate buyers are sitting on sidelines waiting for SBTi and ICVCM CCP guidance finalization to resume purchasing



California's Voluntary Carbon Offsets Business Regulation Bill

SB 1036

- The bill would make it illegal to verify for issuance, issue or sell offsets that a reasonable person should have knowledge that are unlikely to be real, additional, and quantifiable
- Potential significantly impede TCT's ability to purchase Oregon-based NBS offsets regardless of their end purpose
- Bill was withdrawn in Summer of 2024



Oregon CO2 Standard

Requires new fossil fired facilities to mitigate the plant's projected CO₂ emissions over a 30-year time horizon.

The benchmark is CO₂ emission reductions that are 17 percent below the most efficient baseload natural gas fired power plant

3 Compliance Pathways

- 1. Onsite technologies- a proposed facility can use cogeneration technology;*
- 2. Offset project portfolio- acquire and manage or contract with a third-party to acquire and manage a portfolio of carbon offset projects*
- 3. Monetary pathway- make a payment to a Qualified Organization established to serve as the QO for the Standard*

All facilities have selected the Monetary Pathway option to date.



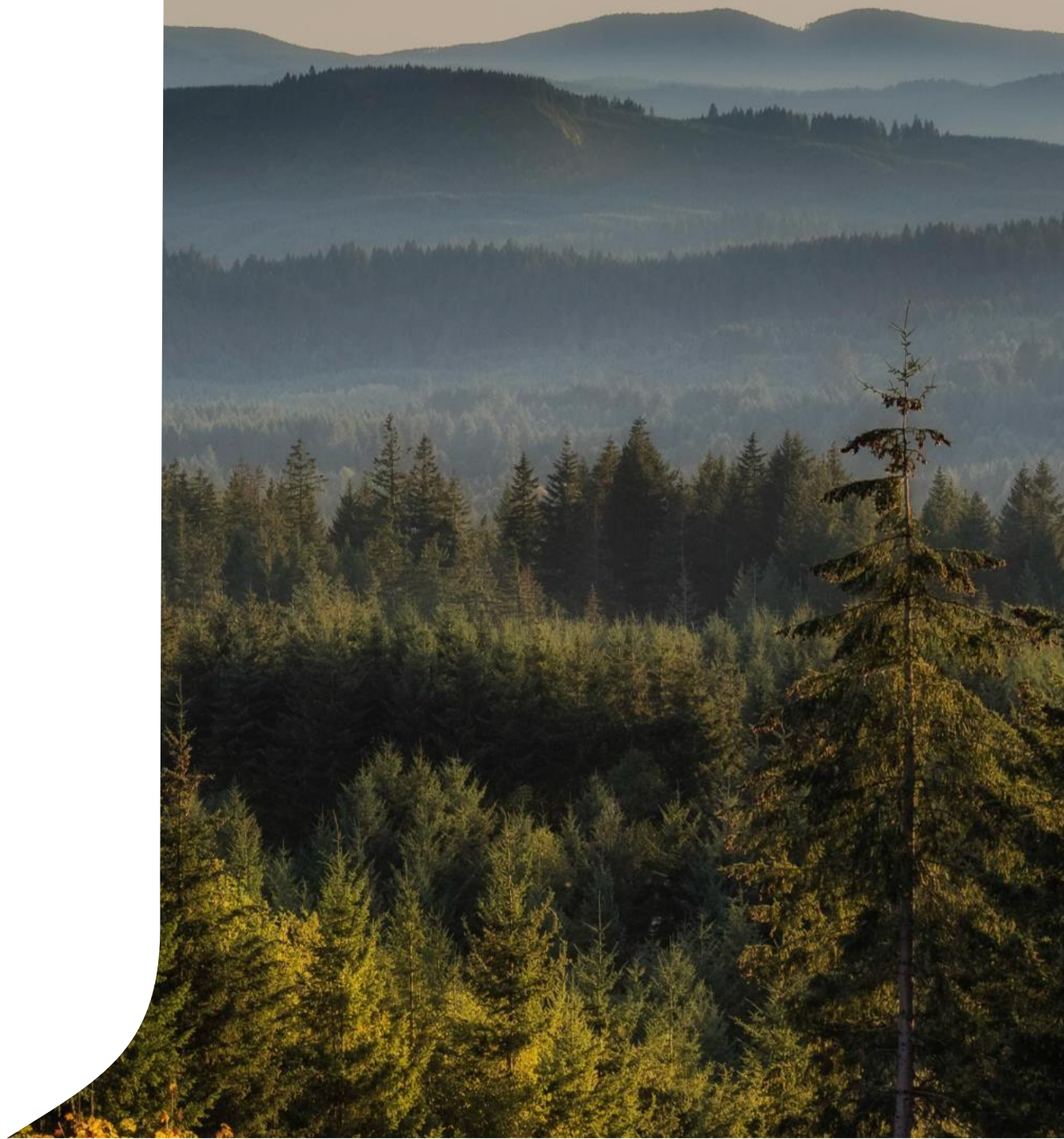
Oregon CO2 Standard

Management Requirements

- 80% of funds received must go towards purchase of offsets
- Commit 60% of offset funds within two years of facility's construction start date
- Spend no more than 20% on management
- Retire offsets on behalf of the Oregon Program

Reporting Requirements

- Annual facility status report
- Annual audit submitted and presented to EFSC
 - Staff report provided to Council



Performance by Facility

- As of June 2024, TCT has obligated 92% of funds.
- Obligated \$3M in 2023 to an Oregon based Improved Forest Management project
- Retired 3.3M offsets on behalf of facilities
- Calpine, Avangrid, Miller had true up payments made between 2019 and 2024
- 5 facilities have fully obligated funds
- Program lifetime average price is \$6.23
 - Average price in 2023 was \$21.41

Site Certificate Holder	Facility	Offset Funds	Obligated	Unobligated
Avangrid	Klamath Cogen (PPM)	\$2,863,312	\$2,364,792	\$498,520
Avangrid	Klamath Cogen (Avangrid)	\$1,570,710	\$1,570,709	\$0
Avista	Coyote Springs	\$2,114,479	\$2,114,479	\$0
Calpine	Hermiston	\$3,811,529	\$3,725,408	\$86,122
NW Natural	Mist	\$18,857	\$18,857	\$0
NW Natural	Mollala	\$26,915	\$26,915	\$0
NW Natural	Miller	\$142,000	\$141,462	\$538
NW Natural	Mist 2017	\$42,554	\$42,554	\$0
Portland General Electric	Port Westward	\$4,320,452	\$3,691,386	\$629,066
Portland General Electric	Port Westward 2	\$3,532,388	\$3,251,878	\$280,511
Portland General Electric	Carty	\$6,469,841	\$6,014,238	\$455,603
TOTAL		\$24,913,039	\$22,962,680	\$1,950,359

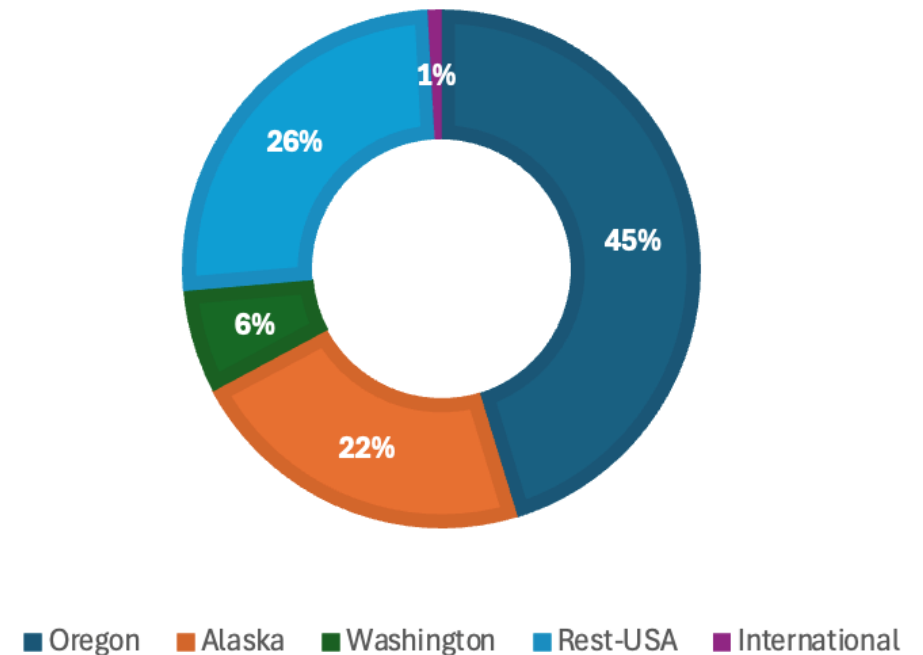
Dollars Benefiting Oregon

Total program dollars have been allocated to 39 offset projects

- 18 projects are located in Oregon
- \$10.4M has been committed to Oregon projects

Currently there are 17 projects available from Oregon in the Voluntary carbon market

- TCT has purchased 480,000 or 42% of offsets issued from Oregon projects for the CO2 standard
- Other available offsets are either pre-sold or from high priced sectors (\$200/offset)



Spenddown of Program

- Obligate and spend \$1.9M by the end of 2026
- Continue to look for high quality projects in Oregon and Pacific Northwest
- Look for opportunities to use carbon finance for new offset sectors



Conclusion

2019-2024

- Obligated \$7.3M in funds to carbon offset projects
- VCM saw massive growth in the past 5 years
- TCT has met its 60% obligation for all facilities within 15 months of payment
- TCT continues to track regulatory and voluntary changes in the market and sees low risk for program continuation



Questions?

Kyler Sherry
ksherry@climatetrust.org

Council Deliberation about any Recommendations to Legislature

BREAK

Agenda Item E (Information Item)

PUBLIC COMMENT

Items Closed for Public Comment

- Wagon Trail Solar Draft Proposed Order
- Boardman to Hemingway Amendment 2 Draft Proposed Order
- Sunstone Solar Project Draft Proposed Order

Time Limit – 7 Minutes per commentor

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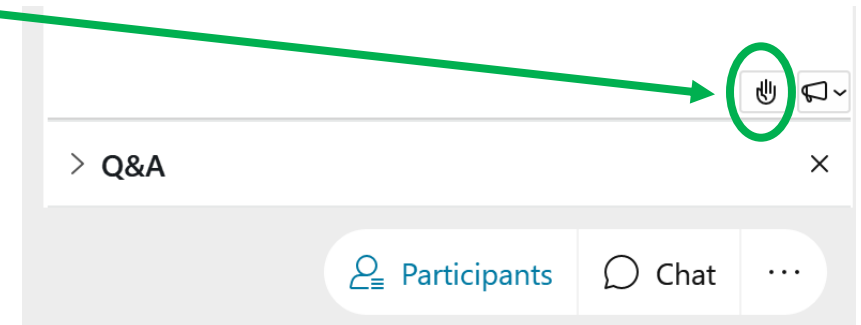
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Agenda Item F (Information Item)

Compliance Program Update

Duane Kilsdonk, Compliance Officer, ODOE

Ash Woods, Compliance Officer, ODOE

Sarah Esterson, Senior Policy Advisor, ODOE

August 22-23 2024

Compliance Program Authority

- **ORS 469.310** - It is, therefore, the purpose of *** to exercise the jurisdiction of the State of Oregon to the maximum extent permitted *** to establish a comprehensive system for the siting, monitoring and regulating of the location, construction and operation of all energy facilities in this state.
- **469.430 Site inspections; compliance reviews** - EFSC has continuing authority over the site for which the site certificate is issued, including but not limited to :
 - Inspect, or direct staff to inspect, or request another state agency or local government to inspect, the site at any time in order to ensure that the facility is being operated consistently with the terms and conditions of the site certificate.
 - Review documents, reports and other materials, or direct staff or request another state agency or local government to review documents, reports or other materials, to ensure that the facility continues to comply with all terms and conditions of the site certificate.

Compliance Program Rules – What We Do

OAR 345 Division 26

- Compliance Plans – Spreadsheet with all conditions filtered by phase (preconstruction, construction, operation and retirement)
- Annual Reports
 - Construction – submitted every six months
 - Operation – submitted by the end of April for the prior calendar year
- Inspections
 - Virtual
 - In person
- Incidents
 - Reported by certificate holder or through a request for an inspection
 - Followed up as necessary

Types of Facilities With Site Certificates

Type	Operating	In Construction	Approved, not started construction	Decommissioning
Wind	12	1		
Solar	2	2	4	
Natural Gas	8			
Transmission Line	1		1	
Cogeneration Plant	1			
Ethanol Production	1			
Nuclear Research Reactor	2			
Steam Turbine Generator	1			
Combo	1		2	
Coal Plant				1

Facility Location by County: North-West

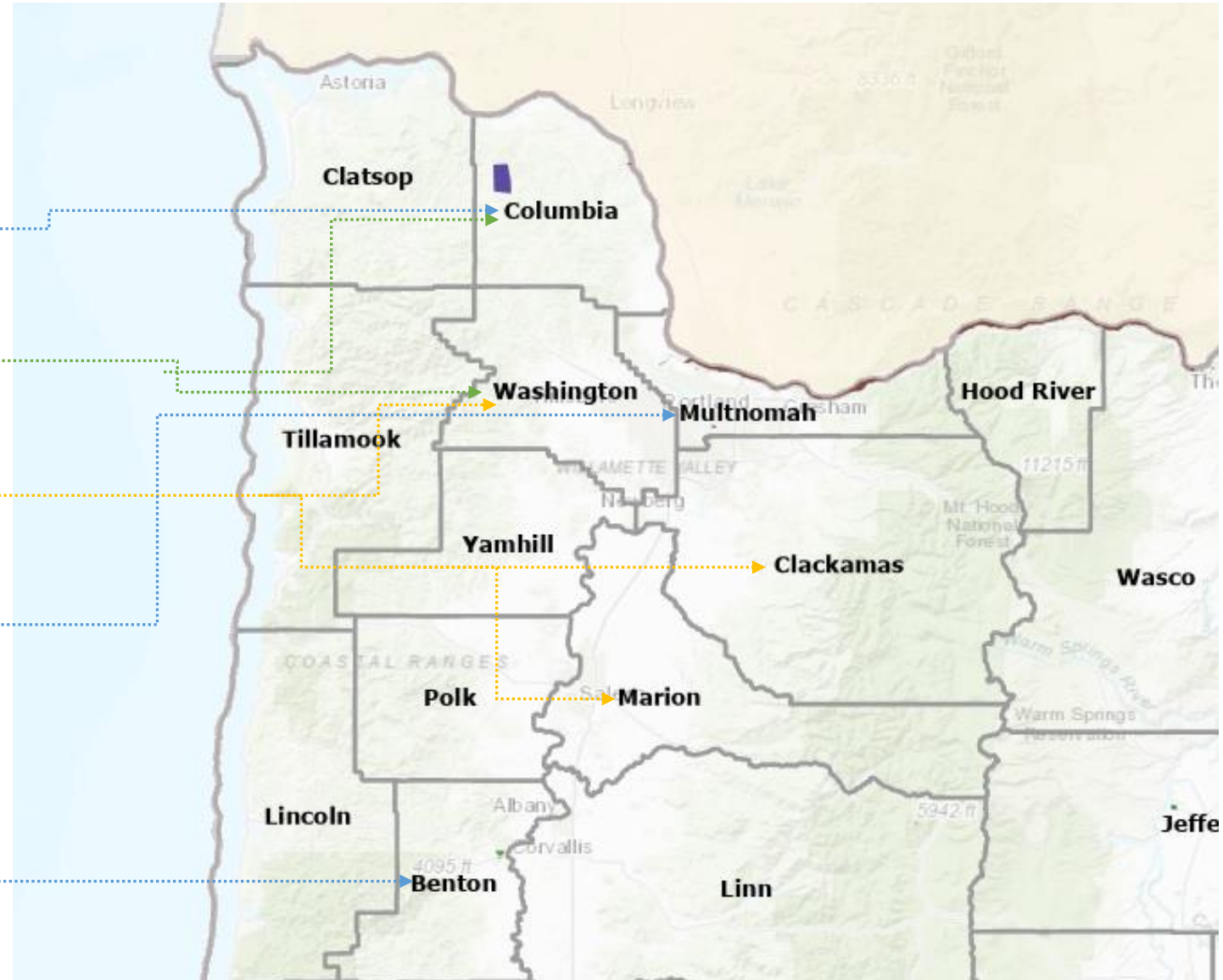
Benton County: 1

Columbia County: 2

Columbia & Washington Counties: 1

Clackamas, Marion, & Washington Counties: 1

Multnomah County: 1



Facility Location by County: North-East

Gilliam County: 5

Gilliam & Morrow Counties: 2

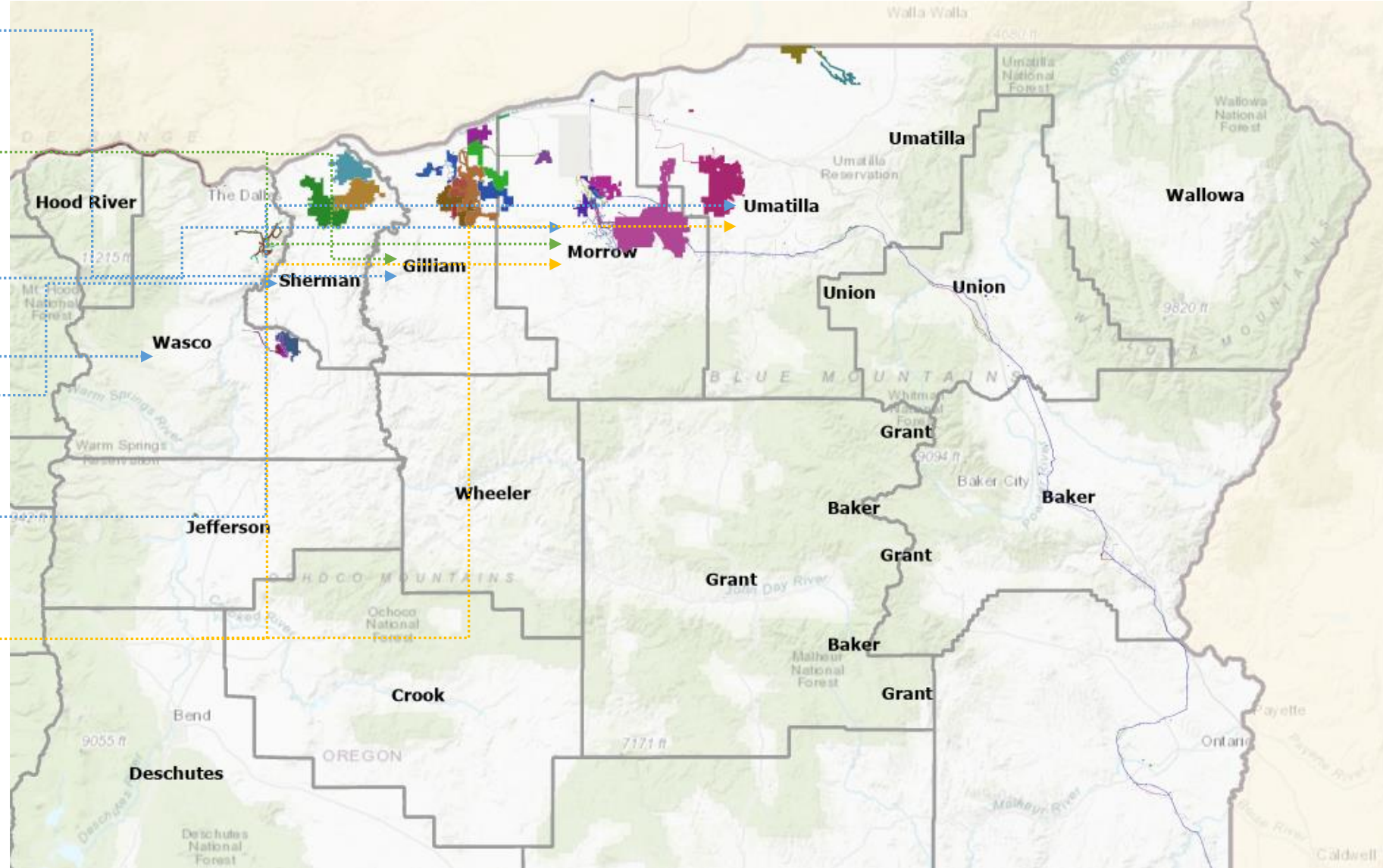
Morrow County: 6

Sherman County: 3

Umatilla County: 3

Morrow & Umatilla Counties: 1

Wasco County: 2

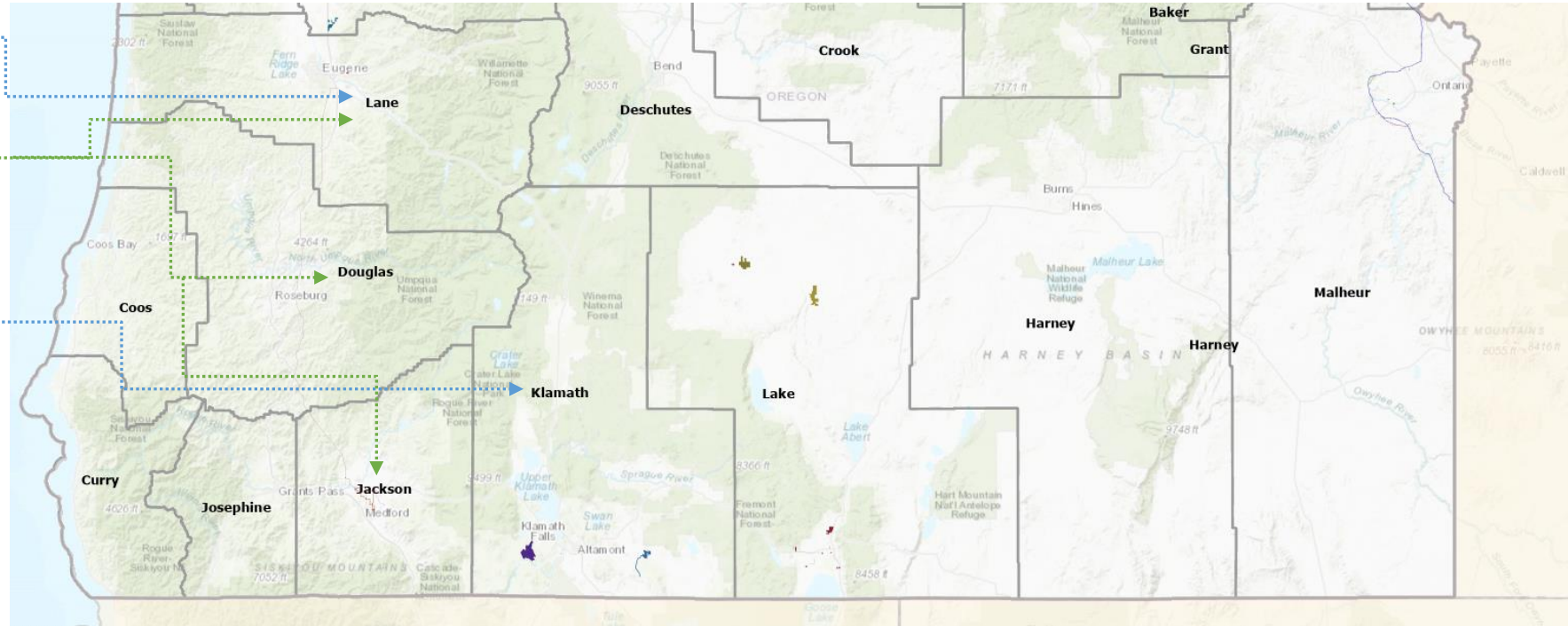


Facility Location by County: South

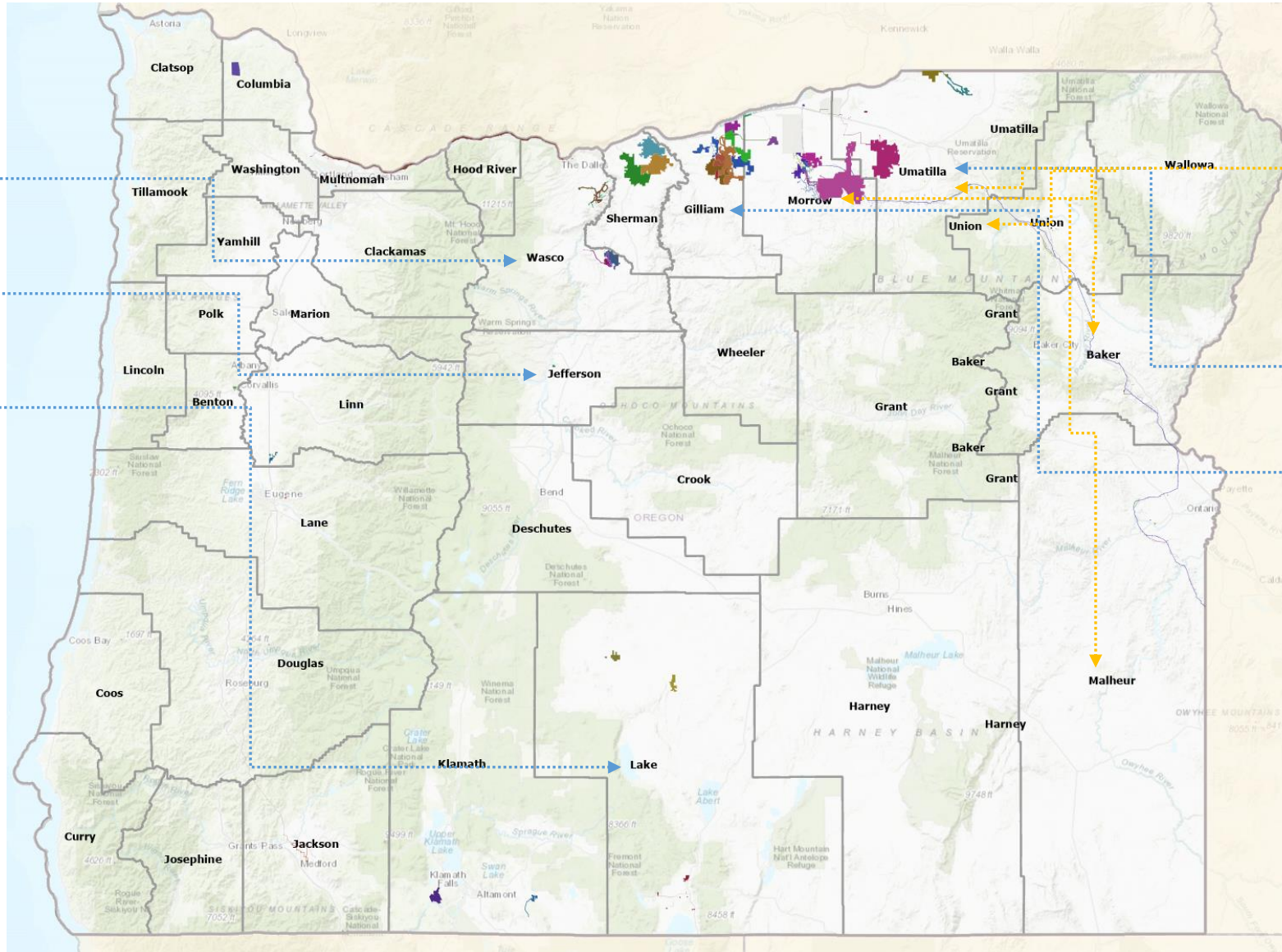
Lane County: 1

Lane, Douglas, & Jackson
Counties: 1

Klamath County: 2



Facility Location by County: Approved, Not yet in Construction

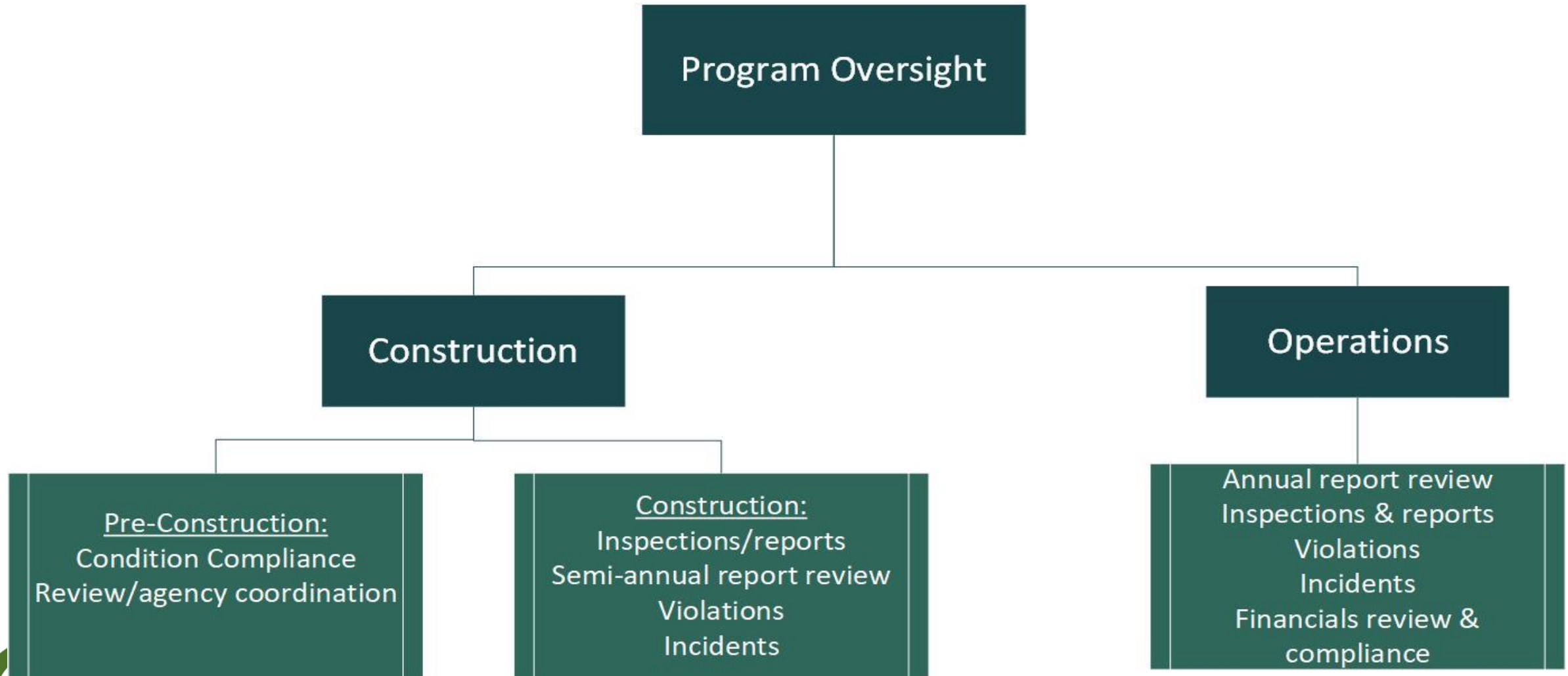


Morrow, Umatilla, Union, Baker, & Malheur Counties: 1

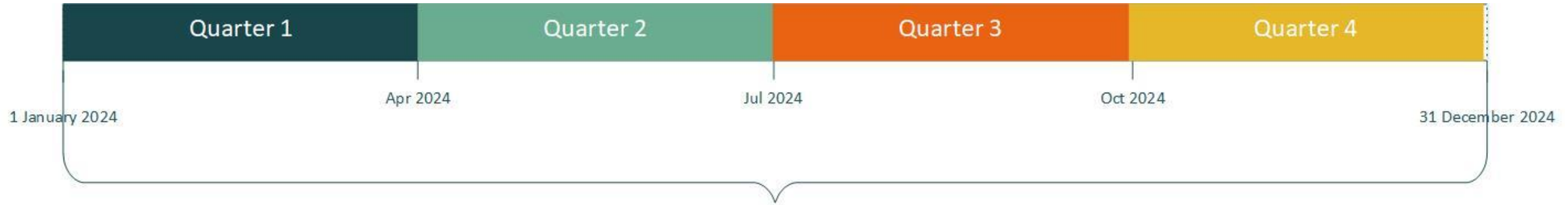
Umatilla County: 2

Gilliam County: 1

Compliance Program Overview



Compliance Program Preconstruction Overview



Jan 2024 - Dec 2024
Tasks Throughout the Year
Per-Facility in Preconstruction status

- Preconstruction Condition Compliance Verification
- Review in Consultation with Local & State Agencies
- Assess Final Mitigation Measures
- Assess Final Design Requirements



Compliance Program Construction Overview



Jan 2024 - Dec 2024
Tasks Throughout the Year

Monthly Inspection Reports

Track & Evaluate
Non-Compliance Issues

Coordinate with Sister Agencies



Compliance Program Annual Operations



May 2024 - Dec 2024
Annual Compliance Activities



Compliance Program Operations



Jan 2024 - Dec 2024
Tasks Throughout the Year

- Incident Reports & Follow Up
- Violations Follow Up
- Process Improvement
- Consult with Siting Team on Application & Amendment Conditions
- Coordinate with Sister Agencies



2024 Inspection Summary

	Annual	2024 Completed
On Site Inspections	16	13
Virtual Inspections	13	0
Construction Inspections	Depends on number of facilities in construction	
Follow-Up Desk Inspections	As Needed	3

- Additional virtual inspections of facilities which are inspected in-person are scheduled as needed
- Each on-site inspection requires an average of 20 hours for prep, 10 hours for inspection, and 17 number of hours for follow up and inspection reports

2024 Incident Summary

- 10 incidents at 7 facilities
- Types of incidents:
 - Transformer fire at the base of a turbine
 - Avian interaction with high current wires causing fire
 - Nose cone detachment from a wind turbine
 - Brush strip and nacelle detachment from a wind turbine
 - Broken blade bearing bolt
 - Increase of NOx on combustion turbines
 - Unauthorized water use
 - Unauthorized work

2024 Incident Summary

Examples of some of the damage/incidents which were reported in 2024



2024 Incident Summary

Examples of some of the damage/incidents which were reported in 2024



2024 Incident Summary

Examples of some of the damage/incidents which were reported in 2024



2024 Sites In Compliance

Examples of sites that were complying and without incident in 2024



2024 Sites In Compliance

Examples of sites that were complying and without incident in 2024



2024 Sites In Compliance

Examples of sites that were complying and without incident in 2024



Recent Changes & Process Improvements

- Hired an additional compliance officer, Ash Woods
- Updated compliance spreadsheets for annual reports from operational sites and pushing sites to report with substantial data
- Procured tablets for field inspections and creating GIS maps of each facility, implementing 'Survey 123'
- Focus on document management/organization
- Use of consultant support; Haley & Aldrich

Future Process Improvements

- Project management tools/resources
- Clear, concise and meaningful site certificate conditions
- Internal workshops: condition writing; agency coordination
- Improved compliance rules (OAR 345 Div 26 and 29) to support Department authority and options for compliance issues

Compliance Program Actions

- Preparing to recruit for 2 new staff positions
- Continuing to use additional staff resources through consultant, Haley Aldrich, and subconsultant
- Prioritizing staff resources on environmental impacts (facilities under construction; early facility operations)

WORKING LUNCH BREAK

Agenda Item G2 (Action Item)

Boardman to Hemingway Request for Amendment 2 Continuation of Council Decision on Requests for Contested Case & Possible Adoption of Final Order

Kellen Tardaewether, Senior Siting Analyst, ODOE



August 22-23 2024

Agenda Item Overview

- Thursday, August 22, 2024
 - Facility and Request for Amendment 2 (RFA2) Overview
 - Begin Review of Contested Case Requests
- Friday August 22, 2024
 - Continue Review of Contested Case Requests
 - Possible Final Decision on RFA2



B2H RFA2: Procedural History

Milestone	Responsible Party	Date
Preliminary RFA2	Cert Holder	06/30/2023
Request for Additional Information (RAI)	ODOE	08/29/2023 (ongoing)
Approval of Modified Analysis Area	ODOE	12/20/2023
Complete RFA2 Filed	Cert Holder	04/11/2024
Draft Proposed Order	ODOE	04/16/2024
Draft Proposed Order Public Hearing/Close of Comment Period	EFSC	05/31/2024
Deadline for Certificate Holder to Respond to Comments	Cert Holder	06/05/2024
EFSC Review of DPO, Public Comments, & Responses	EFSC Review of DPO & Public Comments	06/14/2024
Proposed Order	ODOE	06/28/2024
Deadline to Submit Requests for Contested Case	Public	07/29/2024
EFSC Review of CC and Possible Final Order	EFSC	08/22 and 08/23/2024

Contested Case Request Thresholds

EFSC Consideration of Issues in a Possible Contested Case

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

- that is within the jurisdiction of the Council;
 - in person at the hearing or in a written comment submitted to the Department before the deadline of the public hearing;
 - with sufficient specificity to afford the Council, the Department and the certificate holder an adequate opportunity to respond, including facts that support the person's position on the issue.
- If Council finds that the person requesting a contested case failed to comment in person or in writing on the record of the DPO public hearing or failed to properly raise any issue, as described above, the Council must deny that person's contested case request.

Contested Case Request Thresholds

EFSC Consideration of Issues in a Possible Contested Case

- To determine that an issue justifies a contested case proceeding, the Council must find that the request raises a significant issue of fact or law that is reasonably likely to affect the Council's determination whether the facility, with the change proposed by the amendment, meets the applicable laws and Council standards included in chapter 345 divisions 22, 23 and 24. If the Council does not have jurisdiction over the issue raised in the request, the Council must deny the request.

GENERAL STANDARDS FOR SITING FACILITIES

- 345-022-0000 General Standard of Review
- 345-022-0005 Agency Coordination
- 345-022-0010 Organizational Expertise
- 345-022-0020 Structural Standard
- 345-022-0022 Soil Protection
- 345-022-0030 Land Use
- 345-022-0040 Protected Areas
- 345-022-0050 Retirement and Financial Assurance
- 345-022-0060 Fish and Wildlife Habitat
- 345-022-0070 Threatened and Endangered Species
- 345-022-0080 Scenic Resources
- 345-022-0090 Historic, Cultural and Archaeological Resources
- 345-022-0100 Recreation
- 345-022-0110 Public Services
- 345-022-0115 Wildfire Prevention and Risk Mitigation
- 345-022-0120 Waste Minimization

Council Options on Contested Case Requests

- **Hold the Contested Case** – The request meets the requirements on the prior slide and raises a significant issue of law or fact that is reasonably likely to affect the Council’s determination on whether the facility, with the changes proposed by the amendment, meets applicable standards and laws.
- **Remand Proposed Order to Department** – Same as above but an amendment to the Proposed Order would resolve the significant issue of law or fact that is reasonably likely to affect the Council’s determination on whether the facility, with the changes proposed by the amendment, meets applicable standards and laws.
- **Deny Request for Contested Case** – If the Council finds that the request does not identify a properly raised issue that justifies a contested case proceeding, the Council must deny the request.



Myers Issue 1

Sam Myers Issue 1:

ODOE has failed to adequately judge the ability of IPC to organize or construct B2H.

Department Recommendation:

- Properly Raised – Yes; partially.
 - Mr. Myers raises issues and concerns with the certificate holder's coordination and negotiation with landowner, which is out of EFSC jurisdiction. The issues raised with ODOE failing in its mission and taking the responsibility for Idaho Power's work were also not raised in DPO comments, and thus not properly raised.

Myers Issue 1

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - DPO comments did not identify any specific study for which errors have been identified or specific variances that have been requested or granted.
 - Certificate holder indicated engineering concerns were raised in the OPUC proceedings and the certificate holder addressed the allegations; OPUC concluded: “Regarding the engineering behind B2H towers and transmission lines, we conclude that the record does not support a finding that Idaho Power’s engineering is flawed...”
 - Cultural studies are being formally reviewed through the federal Section 106 process. The Department understands that the Section 106 process is nearing conclusion and the final NRHP eligibility determinations and associated mitigation for impacts will be provided to the Department in the HPMP under GEN-HC-01.

Council Deliberation & Decision on Myers Issue 1

Myers Issue 2

Sam Myers Issue 2:

ODOE failed its mission to support public intervention during the review of the ASC and contested case.

Department Recommendation:

- Properly Raised – Yes; partially.
 - Department interprets Mr. Myers issue to be associated with the adequacy the Wildfire Mitigation Plan and “Wildland Urban Interfaces.”
 - Landowner negotiations are out of EFSC jurisdiction.
 - Mr. Myers did not raise concerns about the DPO hearings and proceedings on the ASC on the record of the DPO for RFA2, therefore, they are not properly raised.
 - These matters are out of the scope of review for RFA2.

Myers Issue 2

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Review of local designations, such as wildland-urban interfaces, is part of the certificate holder's Wildfire Mitigation Plan (WMP).
 - Wildfire Prevention and Risk Mitigation Condition 1 (GEN-WMP-01) requiring that, prior to and during operations, the certificate holder verify that its Operational Wildfire Mitigation Plan includes an evaluation of fire-risks and applies the requirements of its Public Safety Power Shutoff Plan within all five counties for which the project is located, not limited to the certificate holder's service territory.

Council Deliberation & Decision on Myers Issue 2

Stop B2H Issue 1

Stop B2H Issue 1:

The evaluation of RFA2 for the area added to the site boundary fails to comply with OAR 345-027-0375(2)(a) requiring the review to be consistent with requirements for the original Site Certificate.

Department Recommendation:

- Properly Raised – Yes; partially.
 - DPO comments did not make arguments or provide facts to support a position that the area added to the site boundary fails to comply with OAR 345-027-0375(2)(a) and the entire site boundary needs a full review with surveys.
 - “Adjusted to ISO conditions” not raised in DPO comments.

Stop B2H Issue 1

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Department’s December 20, 2023 letter establishing the analysis areas for RFA2 is permissible under OAR 345-027-0360(3) and did not approve the modified and expanded site boundary, that is part of the RFA2 under review by EFSC.
 - OAR 345-027-0375(2)(a) does not require the review of an amendment “to be consistent with” the requirements of the original Site Certificate. The rule requires Council determine that a preponderance of evidence demonstrates “the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application.”
 - OAR 345-001-0010(31), Council is obligated to review a facility within a proposed site boundary, as proposed by the applicant or certificate holder, and does not otherwise have criteria or requirements that would grant Council the legal ability to deny a proposed site boundary unless specifically related to compliance with a Council standard or other applicable law or regulation.
 - DPO and Proposed Order Section II.C.1., Request for Amendment and Revised Analysis Areas, also describes in detail the review of RFA2 and when the certificate holder proposed the expanded site boundary, the analysis area approval letter, and the rules and reasons for changing the analysis areas.

Council Deliberation & Decision on Stop B2H Issue 1

Stop B2H Issue 2

Stop B2H Issue 2:

Maps provided to the public for review are out of compliance with the review standards OAR 345-027-0375(2)(a) and OAR 345-015-0190, OAR 345-027-0360 (1)(b)(C), and OAR Chapter 345, Division 21; OAR 345-021-0010(1)(c)(A) and (B)5, OAR 345-001-0010(55)(6); and OAR 345-027-0360 (1)(b)(C)(8).

Department Recommendation:

- Properly Raised – Yes

Stop B2H Issue 2

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - OAR 345-027-0360(C) states that a pRFA must include “The specific location of the proposed change, and any updated maps and/or geospatial data layers relevant to the proposed change..”
 - The GIS data submitted by certificate holder is consistent with the GIS data requested and received for all EFSC energy facilities.
 - There is not an applicable rule that requires the submission of specific types of GIS, KMZ, KML, etc. formats that may be used with varying types of software.
 - OAR 345-027-0375 and OAR 345-022-0000 (General Standard of Review), require that Council find that the preponderance of evidence supports the applicable findings under reach rule. Preponderance of the evidence means “that the facts asserted are more probably true than false.” Under OAR 345-021-0100(2), certificate holder has the burden of proving, by a preponderance of the evidence in the decision record, that the facility complies with all applicable statutes, administrative rules and applicable local government ordinances.
 - All of the maps provided in RFA2, individually or in combination, comply with the applicable requirements designated in OARs.



Council Deliberation & Decision on Stop B2H Issue 2

Stop B2H Issue 3

Stop B2H Issue 3:

RFA2 and the Proposed Order did not evaluate the Protected Area, Glass Hill State Natural Area (SNR) as required under OAR 345-022-0040 as revised in 2022, nor did it apply the avoidance mitigation required in the standard.

Department Recommendation:

- Properly Raised – Yes

Stop B2H Issue 3

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - There are not any RFA2 facility components or microsites that cross Glass Hill or any other protected area (and the expanded site boundary does not cross the boundaries of Glass Hill).
 - The Department has analyzed the impacts of the proposed changes on protected areas, including the Glass Hill SNA, for impacts from water use, traffic, noise, and visual impacts.
 - Council is not reassessing previously approved components on the Glass Hill SNA. When considering requests for amendment, Council assesses whether proposed changes comply with Council's standards.
 - At the time of Council's 2022 approval of the ASC, the Glass Hill SNA was not protected under the Protected Areas standard because it had not been designated as an SNA and the standard, at that time, applied to areas designated as protected as of May 11, 2007. The Council approved the Morgan Lake alternative to cross a part of what is now designated as the Glass Hill SNA.
 - No balancing authority under 345-022-0000(3)(f), has been requested or recommended under this or any other standard.
 - Stop B2H argues without evidence that there may be additional protected areas that have not been analyzed. STOP B2H has not provided any factual support for this assertion.



Council Deliberation & Decision on Stop B2H Issue 3

Stop B2H Issue 4

Stop B2H Issue 4:

Council should deny the use of a Type C/Amendment Determination Request (ADR) process for RFA2 because the proposed site boundary has not been fully evaluated per OAR 345-027-0375(2)(a). The ADR process/Type C Amendments disregard any public interest by excluding the public, and their due process rights to participate.

Department Recommendation:

- Properly Raised – Yes; partially.
 - Matters of landowner negotiations and land acquisition are outside of EFSC jurisdiction.

Stop B2H Issue 4

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - New General Standard of Review Condition 12 (GEN-GS-07) allows the certificate holder to relocate facility components within the proposed amended site boundary, based on landowner preferences. Under the condition, certificate holder could relocate a component if the owner(s) of land impacted by the change provide written consent to the changes and the Department determines an amendment is not needed, pursuant to the criteria in 345-027-0357.
 - Under the proposed condition and amendment rules, if certificate holder proposes a change that triggers one of the “three could’s” they will have to submit an amendment. Depending on the type of amendment, there may be an opportunity for public comment.
 - ORS 183.415 governs notices that agencies must provide when holding a contested case. It does not govern EFSC’s process for issuing site certificate amendments or the Department’s evaluation of an ADR.
 - Division 27 rules apply to all certificate holders and to changes in a facility and site certificates. Division 27 also allows for certificate holders to submit an ADR and identifies the necessary contents in an ADR and the standard of review for ADRs. To add procedural requirements that are not included in Division 27, which applies to all approved facilities and certificate holders, could prejudice one certificate holder or type of facility.
 - Any changes made to the procedural requirements of Division 27 would be most appropriately done in rulemaking.

Council Deliberation & Decision on Stop B2H Issue 4

Stop B2H Issue 5

Stop B2H Issue 5:

RFA2 and the Proposed Order fail to comply with the Retirement and Financial Assurance Standards OAR 345-022-0050, 345-027-0375(2)(d), and the Mandatory Conditions under OAR 345-025-0006(8). Retirement and Financial Assurance Standard is one of the Standards whereby the Council cannot apply its balancing determination.

Department Recommendation:

- Properly Raised – Yes

Stop B2H Issue 5

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Council previously found that the *form* of the bond, including the operational phased bonding approach, and the *amount* of the bond was adequate to restore the site to a useful, nonhazardous condition.
 - Certificate holder has not requested any change to the form / phased bonding approach in RFA2.
 - Certificate holder updated the amount of the bond to cover the facilities included as part of RFA 2 and to update the cost estimate to reflect Q1 2024 dollars rather than Q3 2016 dollars. The remainder of the proposed bond conditions are unchanged.
 - During the proceedings on the ASC, to address the concerns that limited parties raised, the Council added a process by which it would periodically review the amount of the bond and indicated its authority to ask for an update and to revisit the bonding amount. Retirement and Financial Assurance Condition 5 requires Idaho Power to provide EFSC and ODOE a report every five years, or upon Council request, on multiple aspects of the facility and certificate holder's financial condition.
 - No balancing determination is proposed for RFA2 and has never been evaluated under this standard by Council.



Council Deliberation & Decision on Stop B2H Issue 5

King Issue 1

Wendy King Issue 1:

The possible changes in RFA2 will affect our Agriculture operation at Myers Farm. With possible refinement of even access roads, our historical location will be impacted by B2H construction and operational maintenance. Our scenic resource will be impacted.

Department Recommendation:

- Properly Raised – Yes
 - Issue in contested case request references Exhibit 3 in the request, however, Exhibit 3 was not provided in the comments on the record of the DPO. Council cannot consider Exhibit 1 in its review of the request.

King Issue 1

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - To address agricultural practices and mitigation, including landowner compensation, Council imposed Land Use Condition 14 (GEN-LU-01) requiring that, prior to construction, the certificate holder finalize the Agricultural Assessment and Mitigation Plan (Attachment K-1 Final Order on the ASC).
 - There were no specific issues raised on the adequacy of this plan in Ms. King's DPO comments or issue statement.
 - Issue statement references visual impacts to their historical location. Comments did not identify any RFA2 proposed changes in proximity to the property.
 - Impacts from the previously approved ASC and RFA1 facility are out of the scope of RFA2.
 - Visual impacts to historic, aboveground resources are evaluated in the EFSC process. If the facility results in visual impacts to the Myers Farm, it will be evaluated and mitigated under Historic, Cultural and Archeological Resources Condition 1 (GEN-HC-01).
 - Ms. King's issue statement states concerns of RFA2 changes to their property as a scenic resource. In order to be a scenic resource protected under the Council's Scenic Resource standard, the resource must be identified as significant or important in a land management plan. Ms. King has not provided any evidence that the Myers Farm or property has been designated as an important or significant resource within in a land management plan.

Council Deliberation & Decision on King Issue 1

King Issue 2

Wendy King Issue 2:

Information about the Bartholomew-Myers Farm as a historical resource under OAR 345-022-0090 has not been provided and the resource will be impacted by the approved application for site certificate route.

Department Recommendation:

- Properly Raised – Yes; partially.
 - Issue in contested case request references Exhibit 1 in the request, however, Exhibit 1 was not provided in the comments on the record of the DPO. Council cannot consider Exhibit 1 in its review of the request.

King Issue 2

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Code of Federal Regulation 1093 (Thomson Myers Farm or Bartholomew-Myers Farm) is a historical resource evaluated in the review of the ASC and in the Final Order on ASC.
 - The previously approved route in this area is not part of RFA2, therefore, this is out of the Scope of Review for RFA2.
 - Certificate holder indicated that it is aware of the designation of the Bartholomew-Myers Farm as a Century Farm eligible for listing on the NRHP under Criterion A and assessed potential impacts to Mr. Myers' farm and analyzed potential impacts to the farm as a historic resource in the ASC.
 - In the Final Order on ASC/RFA1, Council concurred with the certificate holder's preliminary recommendations for eligibility and mitigation resources potentially impacted by the facility, and found that, to align with the federal Section 106 review, final eligibility determinations for listing on the NRHP shall be provided prior to construction of the facility in the HPMP under GEN-HC-02.

Council Deliberation & Decision on King Issue 2

King Issue 3

Wendy King Issue 3:

RFA2 is not in compliance with the Wildfire Prevention and Risk Mitigation (OAR 345-022- 0115). RFA2 Ayers Canyon Alternative goes through Butter Creek Wildland Urban Interface.

Department Recommendation:

- Properly Raised – Yes; partially.
 - The contested case request adds arguments and citations that were not made on the record of the DPO. These are not properly raised:
 - Exhibit 2, Fire Potential Index in 2024 WMP, Preventive Safety Power Shutoff in WMP, proposed condition that Wildfire Risk studies be produced for landowner review and include an opportunity for comment & collaboration, Wildfire Mitigation Plan by the

Citizens Utility Board



King Issue 3

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Review of local designations, such as wildland-urban interfaces, is part of the certificate holder’s Wildfire Mitigation Plan (WMP). Wildland Fire Preparedness and Prevention Plan (Appendix A of the WMP) provides guidance to Idaho Power employees and contractors. In this plan, Section 4. Prevention - Practices of Field Personnel, conditions of the surrounding area, including any designated wildland-urban interfaces, are to be evaluated as part of site conditions.
 - Utility WMPs at the OPUC undergo rigorous annual review by the OPUC’s Safety Staff and are analyzed by OPUC staff and an OPUC-contracted evaluator. The WMPs are updated annually. Because they undergo annual review, utilities continuously update WMPs to take into account fire risk zones based on the applicable criteria in the WMPs and to include new risk mitigation strategies and technologies.
 - Certificate holder must comply with the OPUC’s Minimum Vegetation Clearance Requirements.
 - Certificate holder provided conclusions from OPUC review of its WMP: “The evidence in the record makes us conclude that Idaho Power has shown there is a low probability of fire ignition from the operation of the B2H transmission line and that Idaho Power’s fire-related planning and mitigation documents will effectively reduce the probability of fire ignition during construction of the line...”

Council Deliberation & Decision on King Issue 3

Larkin Issue 1

Greg Larkin Issue 1:

Ambient noise monitoring procedures are inadequate and non-representative, his residence will be impacted by noise, certificate holder has the burden of noise monitoring, noise mitigation, which is inadequate.

Department Recommendation:

- Properly Raised – Yes

Larkin Issue 1

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Mr. Larkin’s residence is not impacted by RFA2. (There is not a Transmission line route proposed in RFA2 that would change the noise modeling at this residence as provided in Final Order on ASC).
 - Certificate holder indicated that, Mr. Larkin claims, without evidence, that he predicts corona noise at his house will produce exceedances above 20 dBA, this is contrary to Idaho Power’s modeling and the record of RFA 2. The foul weather increase of corona noise over the late night baseline modeled at Mr. Larkin’s residence (NSR 125) was modeled to be 12 dBA.
 - The issue regarding Mr. Larkin’s health concerns in particular was also thoroughly litigated and considered by the OPUC, which determined that “the evidence before us does not lead us to conclude that the B2H transmission line will jeopardize public health and safety.”
 - Baseline noise measurements, noise modeling, noise assessment results, the noise exception and variance, and mitigation for potential impacts from corona noise were extensively litigated in the contested case and during Council’s review of the ASC.

Council Deliberation & Decision on Larkin Issue 1

Geer Issue 1

Susan Geer Issue 1:

RFA2 proposed changes would introduce invasive plant species and impact the hydrology of Winn Meadows, an important wetland in Glass Hill SNA, protected under OAR 345-022-0040, thereby causing significant adverse impact.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 1

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Council standards of “take into account” mitigation, which is critical in the evaluation of a contested case request. To demonstrate a standard under Divisions 22, 23, or 24 is met, there also has to be a demonstration of how exiting mitigation is also sufficient to address any documented impacts. For example, Ms. Geer’s comment about noxious weeds being introduced to the Glass Hill protected area and harming wetlands. She has not explained or provided facts regarding how the measures in the Noxious Weed Plan (GEN-FW-03) are not sufficient to address the purported impacts.
 - The wetland within Glass Hill SNA has been properly delineated. DSL is aware of Winn Meadows and concurs that it is a wetland; wetlands that would not be impacted by ground disturbance and that are outside of areas accessible to the developer would not be required to be delineated.
 - Condition PRE-RF-01 requires that, prior to construction, the certificate holder conduct updated wetland delineation surveys; submit the associated survey reports to DSL; and provide evidence to the Department of receipt of concurrence from DSL that the wetlands and waters of the states have been properly delineated to inform extent of removal-fill impacts.
 - Neither DSL rules or EFSC standards require wetland delineation of areas outside of locations of potential impact or ground disturbing activities.



Council Deliberation & Decision on Geer Issue 1

Geer Issue 2

Susan Geer Issue 2:

The Council should also recognize that RFA1 and the Morgan Lake Alternative as approved, together with RFA2 result in Cumulative Effects with significant adverse impact to Glass Hill SNA (Protected Area Standard OAR 345-022-0040). The Council should call for an Amended Route between the Baldy Alternative and Hilgard State Park.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 2

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Council does not have the authority to propose or approve any facility routes, roads, or components that are not proposed by certificate holder. Council cannot call for an Amended Route between the Baldy Alternative and Hilgard State Park. Under ORS 469.300(24) and OAR 345-001-0010(31), Council is obligated to review a facility within a proposed site boundary, *as proposed* by the applicant or certificate holder.
 - The ASC approved Morgan Lake alternative route crosses what is now protected as the Glass Hill SNA; at the time of Council approval of the ASC, the Glass Hill SNA was not protected under the standard because the standard.
 - The Scope of Council’s Review under OAR 345-027-0375(2)(a) means that all existing laws and standards must be evaluated for the portions of the facility within the proposed micro-siting area additions and expanded site boundary. The OAR does not allow review of previously approved facility components or routes as evaluated by Council in its Final Order on ASC and RFA1 that are not requested to be changed in RFA2. Council does not have the authority to reverse or re-evaluate its prior decision, as it is maintained as a final decision through prior Final Orders.



Council Deliberation & Decision on Geer Issue 2

Geer Issue 3

Susan Geer Issue 3:

Pyrocoma scaberula (rough goldenweed), an extremely rare plant, is now listed as Endangered under OAR 603-073-0070. The approved route should be shifted to avoid the MorganLake/Twin Lake area where it grows.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 3

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Proposed RFA2 microsite addition areas were surveyed for state listed T&E species, as listed by ODAg at the time of the surveys. *Pyrrocoma scaberula* (rough goldenweed) is not identified by ODAg as likely to occur in Union County, but rather Wallowa County.
 - As indicated in ODOE and certificate holder responses to DPO comments, no facility components are approved or proposed to be located within Morgan Lake Park.
 - ODAg confirmed that the data submitted by Ms. Geer has been determined not to be rough goldenweed. OSU Herbarium Curates confirmed that they survey data represents morphological characteristics key to a different species of the Willamette Valley.
 - Council does not have the authority to reverse or re-evaluate its prior decision, as it is maintained as a final decision through prior Final Orders.

Sarah,

Thanks for checking back in about this. I've checked in with folks working with the specimens to get some clarification on their identity. While the other experts don't know exactly what these reported plants are, they have determined they are not rough goldenweed (*Pyrrocoma scaberula*). According to the current OSU Herbarium Curator, Dr. James Mickley, the morphological characteristics key to a different species (*P. racemose* var. *racemose*) of the Willamette Valley, however it is genetically more similar to *P. scaberula*. At this point the reported populations are not protected as a listed T&E plant.

Jordan Brown, Program Lead Conservation Biologist
Oregon Department of Agriculture – Native Plant Conservation



Council Deliberation & Decision on Geer Issue 3

Geer Issue 4

Susan Geer Issue 4:

Mitigation called for in RFA 2 - Attachment 4 “Draft T and E Plant Mitigation Plan” is NOT a substitute for occurrences of rare plants and their unique undisturbed habitat.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 4

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Condition CON-TE-02 requires that the certificate holder avoid impacts to threatened and endangered plant species by adhering to a 33-foot avoidance buffer if possible, and if not, to install temporary construction mats. Department proposes changes to Site Certificate Condition CON-TE-02 to require a more thorough evaluation of avoidance, followed by mitigation developed by the Department, in consultation with ODAg.
 - The proposed amended condition would require certificate holder to submit a final micrositeing evaluation that maximizes impact avoidance, subject to review and approval by the Department in consultation with ODAg. If the Department determines that complete avoidance is not possible, then Idaho Power must implement mitigation including but not limited to seed collection and long-term conservation storage, transplanting and seeding, and research/monitoring activities.
 - This is consistent with the Council's T&E Species Standard, which allows the Council to consider mitigation.
 - Condition establishes a requirement that final design be reviewed by ODOE and ODAg to ensure that avoidance efforts are maximized and that there is valid justification for any areas represented as infeasible for avoidance. This is a preconstruction requirement that must be satisfied prior to any ground disturbance in areas that could affect a T&E listed species.



Council Deliberation & Decision on Geer Issue 4

Geer Issue 5

Susan Geer Issue 5:

EFSC erred in approving the Morgan Lake Alternative to go through Glass Hill SNA, and then in allowing additional access roads within Glass Hill SNA under RFA1.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 5

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Under OAR 345-027-0375(2)(a), for a request for amendment proposing to add new area to the site boundary, Council must determine that the preponderance of evidence on the record supports a conclusion that the portion of the facility within the area added to the site by the amendment complies with all laws and Council standards applicable to an original site certificate application; All existing laws and standards must be evaluated for the portions of the facility within the proposed micro siting area additions. OAR 345-027-0375(2)(a) does not allow review of previously approved facility components or routes as evaluated by Council in its Final Order on ASC and RFA1 that are not requested to be changed in RFA2.

Council Deliberation & Decision on Geer Issue 5

Geer Issue 6

Susan Geer Issue 6:

The Draft Proposed Order for RFA2 continues to mischaracterize the management of Glass Hill SNA, a Protected Area under OAR 345-022-0040, and the managers of the Natural Area were not notified of RFA2.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 6

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Consistent with OAR 345-027-0360(2)(a)(D), the Department provided notice to all property owners of record identified in RFA2. For the Glass Hill State Natural Parcel, Joel Rice is identified as the landowner of record.
 - Noticing protected area land managers is not required under Division 27 amendment rules, yet is required for the NOI/ASC processes. ODOE provides updates about notices as a courtesy.
 - Because the ASC facility was approved to be located within the boundaries of Glass Hill SNA prior to its designation as a SNA, the requirements for landowner consultation/coordination on a site specific noxious weed plan will apply within areas of impact in Glass Hill SNA.
 - Department attempted to confirm the formal contact information of the land manager. The Department added revised text to the Proposed Order summarizing the Departments research and indicating the area is managed by the landowner, in coordination with other entities.

<https://www.oregon.gov/oprd/CAC/Documents/2020-11-packetOPRC.pdf>, Agenda Item 8b It appears the property and adjacent properties have participated in multiple programs administered by various agencies, including ODFW's Access and Habitat Program.

<https://www.dfw.state.or.us/lands/AH/minutes/2022/April/Glass%20Hill%20Rice%20for%20the%20web.pdf>, Comments on the RFA2 DPO from Ms. Susan Geer indicate that she and Joel Rice are the land managers for the area. B2HAMD2Doc10-16.1 DPO Public Comment, Geer 2024-05-31.

¹⁶² B2HAMD1Doc1 Final Order 2023-09-22_Signed_No Attachments 2023-09-22, page 124. Communication between Kristen Gulick, Tetra Tech, and Lindsey Wise, Oregon State University, Institute for Natural Resources, July 13, 2022, and Meghan Ballard, Blue Mountains Conservancy, July 23, 2022, Attachment 7-2. B2HAMD1 RFA1 2023-06-08. Section 7.1.4. Comments from Ms. Geer on AMD1 DPO indicated that the Glass Hill Preserve may be available for the public to access, however, [2022 ODFW Access and Habitat Program indicates that hunting access is based on permission, therefore](https://www.dfw.state.or.us/lands/AH/minutes/2022/April/Glass%20Hill%20Rice%20for%20the%20web.pdf) open public access to the area [is-remains](https://www.dfw.state.or.us/lands/AH/minutes/2022/April/Glass%20Hill%20Rice%20for%20the%20web.pdf) unclear.

<https://www.dfw.state.or.us/lands/AH/minutes/2022/April/Glass%20Hill%20Rice%20for%20the%20web.pdf>.



Council Deliberation & Decision on Geer Issue 6

Geer Issue 7

Susan Geer Issue 7:

General Conditions under the Protected Areas Standard 345-022-0040 should apply to Glass Hill SNA.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 7

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Council does not have the authority to reverse or re-evaluate its prior decision, as it is maintained as a final decision through prior Final Orders. The rules that applied to the Final Order on ASC, were the rules in place at the time of that decision; which was the version of the Protected Areas standard that did not include Glass Hill.
 - The two conditions that Ms. Geer proposes to revise for RFA2 have specific findings of fact associated with the applicable rules for the areas listed in the conditions; these are detailed in the Final Order on ASC and EFSC cannot arbitrarily add protected areas to conditions without findings of fact under an applicable standard to support the change.

Council Deliberation & Decision on Geer Issue 7

Geer Issue 8

Susan Geer Issue 8:

RFA2 proposes changes to General Conditions (Attachment 6-1 Second Amended Site Certificate) under the Threatened and Endangered Species Standard OAR 345-022-0070 which are unacceptable and should be rejected by the Council.

Department Recommendation:

- Properly Raised – Yes

Geer Issue 8

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Site Certificate Condition CON-TE-02 precludes impacts within 33-feet of a delineated state-listed threatened or endangered plant population unless avoidance is not possible. If avoidance is not possible, the proposed condition modifications provide for mitigation, as described above. This condition is entirely consistent with the Council’s T&E Species Standard, which allows the Council to take into account mitigation for potential impacts to listed species.
 - See above response to Geer Issue 4, related response related to T&E species and allowable and appropriate mitigation under the Council’s standard.



Council Deliberation & Decision on Geer Issue 8

Geer Issue 9

Susan Geer Issue 9:

The Council should reject site boundary expansion and ask Idaho Power to apply for further Amendments instead, if they are needed. Alternatively, expansion should be subject to landowner approval and this should be a condition of the Site Certificate.

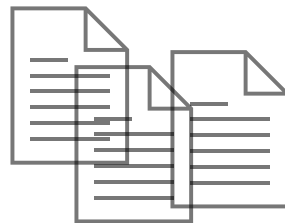
Department Recommendation:

- Properly Raised – Yes

Geer Issue 9

Department Recommendation:

- Significant Issue of Fact or Law – No, because:
 - Certificate holder is required to obtain approval before moving any part of the facility outside the micro siting corridor and into the proposed expanded site boundary. By either submitting an amendment to the site certificate or submitting an ADR to determine if an amendment is necessary. Under New General Standard of Review Condition 12, any ADR would have to contain a landowner consent letter.
 - Division 27 rules apply to certificate holder's approved facilities and site certificate. The ADR process is designated in these rules; Council cannot preclude a certificate holder from exercising the rules.
 - The entire 0.5-mile expanded site boundary does not need to be field surveyed to demonstrate compliance with applicable Council standards. The micro siting areas are the areas where facility components would be located, so field surveys, if necessary, would only be needed in those areas. The expanded site boundary is characterized and evaluated using desktop or literature review studies, which Council routinely accepts to evaluate resources covered by its standards.



Council Deliberation & Decision on Geer Issue 9

Council Decision on Request for Amendment 2

Council Options

Option 1 - Recommended

**Approve Proposed
Order as Final Order**

Option 2

**Approve Proposed
Order Final Order with
Changes**

Option 3

**Reject Proposed Order
and Deny Amendment
with Reasons**

Council Deliberation

BREAK

ADJOURN

