

Oregon Energy Facility Siting Council

September 19-20, 2024 Meeting

Agenda Item D: Wagon Trail Solar Project – Council Review of the Draft Proposed Order

Attachment 2: Summary of DPO Comments, Applicant Response and Department Evaluation

Table 1: Summary of DPO Comments, Applicant Response and Department Evaluation

Commenter	Agency or Representative	Comment	Applicant Response	Department Evaluation of Comment/Applicant Response
Cameron Krebs	Public	<p>Mr. Krebs stated that “solar farms are being sited with a “Bare-earth” approach..[and that] since the dust bowl, our government has strived to incorporate organic matter and residual residue on our soils to incorporate clean water and filtration, protect from wind erosion, as well as water runoff and discharge.”</p> <p>The useful life of a solar farm is 50 years, what is 50 years of continuous chemical use going to do to our local challenges...including “our” current groundwater issues that we face.</p> <p>One of [Mr. Krebs’s] major concerns is that in the permit, there is “currently no talk about harvesting out any of the nitrates in the farm land.”</p> <p>A second concern is that long term soil stabilization is not included in the Noxious Weed plan. In addition, Mr. Krebs indicates that a description of the site during operations wasn’t provided in great detail.</p> <p>A third concern that Mr. Krebs provided was that the “Fire provision section [of the DPO] states that it is a 5 foot minimum fire break, and based on historic wildfires in the County, a 5 foot fire break is not sufficient.” Mr. Krebs encourages an enlargement of the fire break.</p> <p>Lastly, Mr. Krebs expressed concern with the Goal 3 exception, and asks that the allocated offset [mitigation funds] proposed to be provided to OSU for dryland wheat research “be stricken, and opened up to agrivoltaics. Goal 3 is to keep agricultural land in agriculture, and there is a wonderful opportunity to study agrivoltaics going forward into the future.” He clarifies his requests by asking that the allocation of the mitigation funds be “more broad” to allow for OSU to use the money for what they see as the best interest.....be it dryland wheat or other opportunities including agrivoltaics.</p> <p>Mr. Krebs Handout: As defined by NRCS soil health is the continued capacity of soil to function as a vital living ecosystem that sustains plants, animals, and</p>	<p>The Applicant appreciates Mr. Krebs comments regarding soil health and vegetation management practices as solar facility sites. The Applicant has provided several draft plans in the ASC to address revegetation of temporarily disturbed areas (see Attachment P-4, Draft Reclamation and Revegetation Plan, Exhibit P) and vegetation management within the solar array areas (see Attachment P-5, Draft Noxious Weed Control Plan, Exhibit P and Attachment V-1, Wildfire Mitigation Plan, Exhibit V). Vegetation management at the Facility must address many requirements including minimization of fire risk, avoidance of the spread of noxious weeds, and operational needs (i.e. maintaining adequate clearance between vegetation and equipment). The Applicant does not know the exact vegetation management approach that will be utilized at Wagon Trail Solar as it will depend on a number of factors. For example, in some years vegetation management may require higher amounts of chemical application to address weed growth while in other years, less chemicals would be applied and established ground cover would be mowed or grazed as needed. In either case, the Applicant will work with local agricultural contractors/suppliers to purchase vegetation management inputs (i.e. ground cover seed and other supportive inputs) and to provide contractor services such as spraying, mowing, or grazing. When chemicals are used to assist with vegetation management, herbicide application will adhere to the Environmental Protection Agency (EPA) and Oregon Department of Agriculture (ODA) standards. Only those herbicides that are approved by the EPA and ODA will be used. Only the quantity of herbicides needed for the day’s work will be transported to the Facility, and concentrate will be transported in approved containers. In addition, all appropriate precautions will be taken to avoid herbicide spills. In the event of a spill, cleanup will be immediate.</p>	<p>Mr. Krebs provides photographic evidence of the difference between two solar sites with differing approaches to vegetation management, where the site that appear to use chemical application instead of a vegetative mgmt. approach results in long-term soil impacts.</p> <p>The Department agrees with the applicant’s response in that vegetation management applies across multiple standards including Fish and Wildlife Habitat, Land Use and the Wildfire Prevention and Protection standards. But, the Department disagrees that the vegetation management requirements of these plans is designed to protect soil and erosion potential within the facility fenceline.</p> <p>The Department is coordinating with DEQ and ODAg on vegetation management approach that would address this issue. The Department recommends a new or amended condition be incorporated into the Proposed Order to ensure a long-term vegetation management strategy designed to ensure site stabilization and soil protection for areas within the fenceline that are not occupied by permanent infrastructure.</p>

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		<p>humans. Healthy soil gives us clean air and water, bountiful crops and forests, productive grazing lands, diverse wildlife, and beautiful landscapes.</p> <p>Both solar farm sites pictured are located in the Columbia Basin; one in Morrow County and the other in an adjoining county. Sites are similar in size and operational years. Pictures from the spring 2024 growing season.</p> <p>Site A, on the left has a healthy vegetative cover across the entire site. Management practices have been mowing and grazing over the last two growing seasons. Benefits: Soil with vegetative cover aids in water infiltration, prevention of water erosion and provides habitat.</p> <p>Site B, on the right has had at least two consecutive years of bare earth during the growing season. Perceived management practice is continuous chemical applications. Concerns: What is the effect of long-term chemical applications to our drinking water, surface water, soil health, wildlife and natural environment.</p> <p>Please don't permit solar farms to use a bare earth approach to vegetation management.</p>		
Sam Myers	Public	<p>“Super concerned” about ground contamination from the solar array [if burned in a fire or hit by hail].</p> <p>Questioned what would be left after a fire “rolls through” the solar array – specifically what “toxic chemicals” would be left in the soil. “If [EFSC] doesn’t know the answer to this, it’s an abject failure, a dereliction of pursuit.”</p> <p>Discussed a lack of coordination between ODOE and the Oregon Department of Agriculture (ODAg), stating that ODAg is “loosing too much farmland”, and that ODOE’s response is that “Solar can go here.”</p>	No response provided.	Mr. Myers expresses concern about ground contamination and lack of coordination between ODOE and ODAg on solar siting. Mr. Myers did not provide facts or evidence to support his statements of concern and did not refer to any deficiencies within the ASC or the analysis presented in the DPO. Changes to the Proposed Order are not recommended.
Chris Rauch	Public	Mr. Rauch states that he lives in the middle of the proposed facility, and states that at least for the developments on his property...that wildfire is not a concern – clarifying that “bare ground doesn’t burn”.	No response provided.	Mr. Rauch’s comments did not raise any issues associated with the ASC or the DPO.

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		<p>Mr. Rauch also states that weeds “aren’t usually an issue unless you grow stuff in there.”</p> <p>Regarding the Goal 3 mitigation, it is being applied to OSU dryland farming because that is where the facility is being sited. “If it were on range ground...,” Mr. Rauch suggests it would be different.</p>		Changes to the Proposed Order are not recommended.
Kelly Hale	Public	Ms. Hale voiced her support of the project, and for NextEra and the jobs NextEra projects create in Morrow County.	No response provided.	Ms. Hale’s comments did not raise any issues associated with the ASC or the DPO. Changes to the Proposed Order are not recommended.
Kelly Killkenny Hale	Public	<p>The Robert J. Killkenny Trust is the sole owner of two LLCs created to hold two tracts of farm ground previously owned by our Dad: the Killkenny Land Company, LLC., and the RJK Family, LLC. Russell and I became successor Trustees to Dad after he died in 2016. RJK Family, LLC has both Turbines and Solar panels on the land. Killkenny Land Company, LLC has Wind Turbines only at this time.</p> <p>The first year of operation after Dad’s passing provided no ROI. The ground is a very fine Silt Loan. We have no access to water. The average yield is 30 bushels to the acre. The price for wheat in 1975 was similar to this year. Land values are roughly \$500 an acre for our ground vs Irrigated ground at \$12,000 an acre. The first year after the Turbine installation gave us an ROI of roughly 15%. It allowed us to increase acreage. We let our CRP contracts expire that totaled 700 acres and have begun the process of returning it to farm land. That increased our fertilizer bill to MCGG by \$40,000.00.</p> <p>We are also working to make our existing acres more productive. We’ve began a double fallow rotation. This has many benefits: it allows us to kill more weeds and rye and boosts our average yield. We realize that the solar leases will take acres out of production. It’s important that you understand the extra revenue from the Wind revenue has given us the opportunity to add more acreage into production and increase our yields.</p>	The Applicant appreciates the comment of support for the project from Ms. Killkenny-Hale.	Ms. Hale’s comments did not raise any issues associated with the ASC or the DPO. However, her statements support an understanding of the applicant’s parent company and their organization expertise and ability to follow through with financial commitments made to underlying landowners. The Department recommends these landowner statements be incorporated as facts into the Proposed Order, as part of the analysis under Organizational Expertise.

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		<p>We will see a net gain in production from the Renewable Energy Partnership with NextEra. Our working relationship with NextEra has been extremely productive. They have paid to clean up our property. They are incredible stewards of the land. Also, they have provided additional jobs/tax revenues to Morrow County. They have also provided sponsorship to local events.</p> <p>Thanks in advance for your support of the Wagon Trail Solar Facility. Please reach out with any additional questions.</p>		
Tamra Mabbot	Morrow County Planning Department	[Card says "Written comments to follow." The written comments were submitted on May 31, 2024 by the Morrow County Planning Department.]	No response specifically provided for Ms. Mabbot, but the Morrow County Planning Department comment letter was evaluated by the Applicant as a comment from David Skyes, Chair of the Morrow County Board of Commissioners. See Applicants response further below in this table.	
Tamra Mabbot	Morrow County Planning Department Morrow County Board of Commissioners/Special Advisory Group	<p>[3-page letter. Main comments summarized.] [Thank you paragraph, project details summary.] As part of our ongoing engagement, Morrow County appreciates the responsiveness of the Oregon Department of Energy (ODOE) in addressing concerns raised during the Application for Site Certificate (ASC) process, particularly regarding issues such as noxious vegetation and wildfire risks. We are strongly supportive of the project and anticipate continued collaboration with the Department and the Applicant to ensure its successful establishment in Morrow County. [Statement that these comments are focused on Goal 3 exception justification. History of correspondence.] ...Morrow County has not found that the final version of the application sufficiently demonstrates that an exception to Statewide Planning Goal 3 is justified. The County disagrees with ODOE's findings related to several elements of the Applicant's goal 3 reasons justification, as outlined below.</p>	Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).	[The Department's evaluation and response to the Morrow County Planning Department comment is presented in the rows below]
		<p>1. The Facility responds to important state and county goals and priorities. Department rejects Applicant's argument-consistency with local and state energy policies is not an adequate reason to justify taking an</p>	Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).	Morrow County agrees with the Department's analysis; changes to the Proposed Order are not recommended.

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		<p>exception to Goal 3. Morrow County agrees with ODOE that this justification is insufficient and should be rejected.</p>		
		<p>2. The Facility is locationally dependent. Department accepts the Applicant's argument that proximity to existing or approved renewable energy development and an existing transmission line satisfies criteria for being locationally dependent. County concurs with ODOE that this reason is sufficient and should be accepted.</p>	<p>Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).</p>	<p>Morrow County agrees with the Department's analysis; changes to the Proposed Order are not recommended.</p>
		<p>3. Minimal Impacts to Agriculture. Department rejects two of the Applicant's justifications demonstrating minimal agricultural impacts. A. Minimal direct impacts on agriculture. (ODOE rejected) B. Minimal indirect impacts and induced impacts on agriculture. (ODOE accepted) C. Water availability. (ODOE accepted) D. Farmland preservation and temporary land conversion. (ODOE rejected) County concurs with ODOE's rejected of items a and d above as well as ODOE's acceptance of item c. However, County disagrees with ODOE's finding on item b above and finds, in the alternative that the project will have substantial indirect and induced impacts on the local agriculture economy. Similar to wetland mitigation, county supports agricultural mitigation as a way to approve the exception to Statewide Planning Goal 3.</p>	<p>Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).</p>	<p>Morrow County expresses concern regarding the Department's recommendation that the Council find that the proposed facility would have "minimal indirect and induced impacts on agriculture" as a reason justifying granting a goal exception. Neither the DPO comments nor any of their prior comments provided as an attachment address any insufficiencies in the analysis and evidence provided in ASC Exhibit K or as evaluated in the DPO. The Department therefore cannot further evaluate the issues raised.</p>
		<p>4. Local Economic Benefits. Department rejects Applicant's argument that the economic benefits of the project constitute a reason justifying taking a goal exception, however Department finds that the economic benefits of related to the agricultural mitigation fund and sufficient for justifying such an exception. County does not agree with ODOE's finding that the project's local economic benefit is a sufficient reason to justify the Applicant's requested Goal 3 exception. There is indeed general economic benefit with the construction and operation of a solar facility. There is not, however, a direct nexus between those general economic benefits and</p>	<p>Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).</p>	<p>Morrow County expresses concern regarding the Department's recommendation that the Council find that the proposed facility would have an "economic benefit related to agriculture" as a reason justifying granting a goal exception. Part of the applicant's justification for this reason is based on agricultural-related mitigation they intend to implement to offset impacts, based on a quantified \$/acre formula. The county</p>

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		benefit (or impacts) to farmland. As a remedy, to offset net impacts to agricultural lands, County supports a robust farm mitigation program.		<p>argues that based on another project, the cost per acre utilized to determine the funding needed to offset agricultural impacts is in adequate.</p> <p>First, the county’s comparison of the analysis provided in the Wagon Trail Solar ASC to the Sunstone Solar Project ASC is misguided. The Sunstone Solar Project ASC is not yet in the DPO phase, has not been released for public comment and has not been approved by Council. For these reasons, the two projects should not be compared to support a position that the reason currently under review is inadequate.</p> <p>The Department continues to evaluate the conditions proposed by the applicant and their analysis provided by its third-party consultant to determine if there are any information gaps or conditions that should be imposed to ensure that this reason can be fully realized during implementation in the manner it is currently represented. Changes to the Proposed Order may be recommended.</p>
		5. Minimal Impacts to Other Environmental Resources. Department agrees that minimal impacts to other environmental resources is a sufficient justification for approving a Goal 3 exception. County concurs with ODOE that this reason is sufficient and should be accepted.	Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).	Morrow County agrees with the Department’s analysis; changes to the Proposed Order are not recommended.

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		<p>The DPO includes land use conditions 14 and 15, which require the applicant to contribute \$170,000 to the Oregon State Agricultural Research Program and \$300,000 to the Morrow County Grain Growers Association. While County strongly supports the identified projects, those contributions fall short in addressing the substantial impacts of lost agricultural land. County believes that the ODOE conditions undervalue the impact on Morrow County's agricultural economy. By comparison, a similar project under EFSC review (Sunstone Solar) found a much higher value per acre in establishing the mitigation methodology. Both projects relied on the same consultant, ECONorthwest, to conduct that analysis. The analysis for the Sunstone project reflects a more comprehensive understanding of the anticipated direct and indirect economic implications. Morrow County believes it is important to establish consistent and robust methodology for assessing agricultural mitigation, particularly as used to justify a Goal 3 exception. Mitigation for removal of wetlands is a well-established practice which is a model for agricultural lands mitigation. While appreciative of the efforts thus far, the proposed conditions represent a nominal contribution per acre comparatively.</p>	<p>Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).</p>	<p>Morrow County expresses concern regarding the Department's recommendation that the Council find that the proposed facility would have an "economic benefit related to agriculture" as a reason justifying granting a goal exception.</p> <p>First, the county's comparison of the analysis provided in the Wagon Trail Solar ASC to the Sunstone Solar Project ASC is misguided. The Sunstone Solar Project ASC is not yet in the DPO phase, has not been released for public comment and has not been approved by Council. For these reasons, the two projects should not be compared to support a position that the reason currently under review is inadequate.</p>
		<p>We urge ODOE and the Applicant to reconsider the justification for the requested Goal 3 exception and enhance the agricultural mitigation proposal. This would include formalizing the mitigation proposal with a Memorandum of Agreement which may also include the appointment of a committee to identify projects and distribute the funds to agricultural programs that serve to mitigate impacts to farmland.</p> <p>We hope the county's solution will not create an undue burden on NextEra nor disrupt the project timeline. Thank you for considering our input on this matter. We remain committed to construction engagement and look forward to further discussions to address these concerns. For questions or additional information, please contact Tamra Mabbott, Planning Director, at 541-4624 or tmabbott@co.morrow.or.us.</p>	<p>Please refer to the Applicant's Morrow County Response Letter (June 11, 2024).</p>	<p>The Department continues to evaluate the conditions proposed by the applicant and their analysis provided by its third-party consultant to determine if there are any information gaps or conditions that should be imposed to ensure that this reason can be fully realized during implementation in the manner it is currently represented. Changes to the Proposed Order may be recommended.</p>