



Oregon

Tina Kotek, Governor



550 Capitol St. NE
Salem, OR 97301
Phone: 503-378-4040
Toll Free: 1-800-221-8035
FAX: 503-373-7806
www.oregon.gov/energy

To: Energy Facility Siting Council

From: Chase McVeigh-Walker, Senior Siting Analyst

Date: November 1, 2024

Subject: Agenda Item D (Public Hearing): Madras Solar Energy Facility, Public Hearing on the Draft Proposed Order on Amendment 1 for the November 14, 2024 EFSC Meeting

Attachments: 1: [Draft Proposed Order](#) (also provided via hyperlink)
2: Comments (any received after the date of this staff report will be provided in Supplemental Council materials prior to the November 14, 2024 meeting)

STAFF RECOMMENDATION

The Oregon Department of Energy (Department) recommends the Energy Facility Siting Council (EFSC or Council) approve the requested site certificate amendment and grant issuance of the First Amended Site Certificate for the Madras Solar Energy Facility, subject to compliance with existing, recommended amended, and recommended new site certificate conditions.

APPROVED FACILITY

The approved but not yet constructed facility includes 63 megawatts of solar photovoltaic energy generation to be located within an approximately 284-acre site boundary. The certificate holder is Madras PV1, LLC., a wholly owned subsidiary of Ecoplexus Inc. The Council issued the Site Certificate on July 16, 2021.

PROPOSED FACILITY MODIFICATIONS

The certificate holder requests a three-year extension to both the construction commencement and completion deadlines. This change would make the new construction commencement deadline June 25, 2027, and new completion deadline 18 months after construction commences.

PROCEDURAL HISTORY

- June 25, 2024 – Certificate holder filed the preliminary Request for Amendment 1 (pRFA1) with the Department.
- August 22, 2024 – Based on the Department’s review of the pASC; responses to requests for additional information; changes in fact or law; and coordination with state, tribal and local governments; Department determined pRFA1 was incomplete, and issued its’ first Request for Additional Information (RAI1).
- September 9 and 23, 2024 – Certificate holder responded to RAI1
- September 26, 2024 – Department issued RAI2

- October 3 and 9, 2024 – Certificate holder responded to RAI2
- October 17, 2024 – Department notified the certificate holder that the amendment request was complete, and the certificate holder filed the complete amendment request with the Department.
- October 18, 2024 – Department issued the Draft Proposed Order (DPO) and the public notice requesting public comment on RFA1 and the DPO.

SCOPE OF COUNCIL REVIEW

Under OAR 345-027-0375, the Council must determine whether the preponderance of evidence on the record supports the following conclusion:

After considering any changes in facts or law since the date the current site certificate was executed, the facility complies with all laws and Council standards applicable to an original site certificate application.

For other changes included in an RFA, such as changes to site certificate conditions, the Council must determine whether the preponderance of evidence on the record supports the following conclusion:

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.

For all requests for amendment, Council must determine whether the preponderance of evidence on the record supports whether the amount of the bond or letter of credit required under OAR 345-022-0050 is adequate.

DEPARTMENT EVALUATION OF RFA1 AND SUMMARY OF DPO

As presented in the DPO, the Department recommends Council find that, subject to existing, and recommended amended and new conditions of approval, the preponderance of evidence on the record supports the conclusion that the facility, with the changes proposed in RFA1, would comply with the Council’s general standards in OAR chapter 345, division 022, and with other applicable provisions of OAR chapter 345 and ORS chapter 469.

In the DPO, the Department recommends that the changes proposed in RFA1 would not necessitate new or amended site certificate conditions, and that to the extent applicable, previously imposed conditions would continue to minimize potential impacts under the following applicable standards/requirements:

- Structural (DPO Section III.C., pg: 18-20)
- Soil Protection (DPO Section III.D., pg: 20-21)
- Land Use (DPO Section III.E., pg: 21-27)
- Protected Areas (DPO Section III.F., pg: 27-35)
- Threatened and Endangered Species (DPO Section III.I., pg: 46-47)
- Scenic Resources (DPO Section III.J., pg: 48-54)
- Historic, Cultural, and Archeological Resources (DPO Section III.K., pg: 54-57)
- Recreation (DPO Section III.L., pg: 57-62)

- Waste Minimization (DPO Section III.O., pg: 84-86)
- Siting Standards for Transmission Lines (DPO Section III.P., pg: 86-87)
- Noise Control Regulations (DPO Section IV.A., pg: 86-95)
- Removal Fill (DPO Section IV.B., pg: 95-96)
- Water Rights (DPO Section IV.C., pg: 95)

A summary of conditions for standards where there were changes in fact or law, or recommended substantive condition language changes, are presented below:

General Standard of Review (DPO Section III.A., pg: 11-14)

Recommended Amended General Standard Condition 1 (GEN-GS-01) - Establish an extension of three years to the dates for the beginning and completion of construction. (*Construction completion would remain 18 months after the construction commencement date.*)

Organizational Expertise (DPO Section III.B, pg: 14-17)

Recommended Amended Organizational Expertise Condition 5 (GEN-OE-04) - Amend condition to allow adjustments be made to the contingencies in the facility decommissioning cost (Table 5 of DPO on RFA1), based on review and evaluation of the facility record for incidents or circumstances reported or reportable under sub(a), related to public health and safety, the environment, or other resources protected under Council standards.

Retirement and Financial Assurance (DPO Section III.G., pg: 35-42)

Recommended Amended Retirement and Financial Assurance Condition 4 (PRE-RF-01) - Adjust the total amount of financial assurance necessary to restore the site to a useful, non-hazardous condition from \$4.1 million in Q4 2019 dollars to \$4.5 million in Q4 2024 dollars.

Fish and Wildlife Habitat (DPO Section III.H., pg: 42-46)

Recommended Deletion of Fish and Wildlife Condition 1 (GEN-FW-01) - Removal of this condition because temporary habitat impacts are recommended to be considered permanent impacts, thus the Revegetation Plan is no longer needed.

Public Services (DPO Section III.M., pg: 62-68)

Recommended New Public Services Condition 5 (PRE-PS-02) - New condition to ensure the water source and provider's legal ability to meet the construction water usage needs are identified, prior to construction.

Recommended Deletion of Public Services Condition 4 (GEN-PS-03) - Removal of this condition because the measures and substantive elements of Public Services Condition 4 are now incorporated into the construction Wildfire Mitigation Plan (WMP) which is attached to the DPO as Attachment F-1.

Wildfire Prevention and Risk Mitigation (DPO Section III.N, pg: 68-84)

This standard was adopted after the facility was approved in 2021. Below are key findings in the DPO:

- Approximately 13% of the site boundary has a “very high overall fire risk rating”, and approximately 40% that includes a “high overall fire risk rating”.
- Areas within the site boundary with heightened wildfire risk and high-fire consequence areas are the areas with existing infrastructure, including transmission lines (i.e. the existing Pelton Dam to Round Butte 230 kV transmission line), roads, and residences.
- The Jefferson County 2020 Community Wildfire Protection Plan indicates the facility site is located within a high wildfire risk area (the lowest risk on their scale).

Recommended New Wildfire Prevention and Risk Mitigation Conditions 1 and 2 (PRE-WF-01, CON-WF-01) - New conditions to ensure finalization and implementation of the construction WMP.

Recommended New Wildfire Prevention and Risk Mitigation Conditions 3 and 4 (PRO-WF-01, OPR-WF-01) - New condition to ensure finalization and implementation of the operational WMP.

PUBLIC COMMENT PERIOD AND NEXT STEPS

The October 18, 2024 public notice initiated a 27-day public comment period on RFA1 and the DPO concluding at the end of the public hearing to be held at the Inn at Cross Keys Station in Madras on November 14, 2024. As of the date of this staff report, the Department has not received any written comments on RFA1 or the DPO. Any comments that are received will be provided to the Council and certificate holder in advance of the November 14, 2024 hearing.

As explained in the Public Notice, failure to raise an issue in person or in writing prior to the close of the record of the public hearing with sufficient specificity to afford EFSC, the Department, and certificate holder an opportunity to respond to the issue precludes the Council from considering whether that issue justifies a contested case proceeding. To raise an issue with sufficient specificity, a person must present facts that support the person’s position on the issue.

Following the close of the record, the Council will review the DPO and any timely public comments received on the record of the hearing and will have an opportunity to provide comments to the Department for consideration in their drafting of the Proposed Order.

No later than 30 days after the Council’s review, the Department must issue a Proposed Order recommending approval, modification or denial of the request for amendment to the site certificate. The issuance of the Proposed Order will be accompanied by a public notice establishing a deadline for requests for a contested case proceeding.

Following the conclusion of the contested case, or if there is no contested case, the Council will then review the Proposed Order which may be adopted, modified, or rejected. If the Proposed Order is adopted, or adopted with modifications, the Council will issue a Final Order granting issuance of an amended site certificate. If the Proposed Order is denied, the Council shall issue a Final Order denying issuance of the amended site certificate. The Final Order will be subject to judicial review by the Oregon Supreme Court as provided in ORS 469.403.