

**OREGON DEPARTMENT OF ENERGY**

Regarding Statutes, Administrative Rules, and )  
Other Requirements Applicable to the Proposed )  
**Madras Solar Energy Facility** )

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**PROJECT ORDER**

**ISSUED BY  
OREGON DEPARTMENT OF ENERGY  
550 Capitol Street NE  
Salem, OR 97301-3742**

**Issued September 12, 2019**

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1 **I. INTRODUCTION**

2 The Oregon Department of Energy (ODOE or the Department) issues this Project Order for the  
3 proposed Madras Solar Energy Facility in accordance with Oregon Administrative Rule (OAR)  
4 345-015-0160. The applicant is Madras PV1, LLC, a wholly owned subsidiary of Ecoplexus Inc.  
5 On May 16, 2019, the applicant submitted to the Department a Notice of Intent (NOI) to apply  
6 for a site certificate. The proposed facility is anticipated to occupy approximately 270 acres and  
7 provide a nominal generating capacity of up to 63 megawatts (MW) from photovoltaic (pv)  
8 solar power.

9 Following the review of an NOI, Oregon Revised Statute (ORS) 469.330(3) and OAR 345-015-  
10 0160 require the Department to issue a Project Order to the applicant establishing the  
11 application requirements for the proposed facility. Accordingly, the Department issues this  
12 Project Order establishing the requirements for the site certificate application for the Madras  
13 Solar Energy Facility. As provided in ORS 469.330(4), this is not a final order and the  
14 Department or the Energy Facility Siting Council (EFSC or Council) may amend this Project Order  
15 at any time.

16 ORS 469.401(4) provides that a site certificate issued by the Council does not govern certain  
17 matters. The Project Order identifies only those matters that will be included in and governed  
18 by the site certificate, if issued by EFSC, and as applicable to issuance of the site certificate for  
19 the proposed facility pursuant to ORS 469.503(3). Throughout this Project Order, the definitions  
20 in ORS 469.300 and OAR 345-001-0010 apply, except where otherwise stated or where the  
21 context indicates otherwise.

22 As noted, on May 16, 2019, Madras PV1, LLC submitted to the Department a NOI to file an  
23 application for a site certificate for a proposed photovoltaic energy generation facility.  
24 According to the NOI, the proposed photovoltaic energy generation facility is anticipated to  
25 occupy approximately 270 acres of land in Jefferson County. The proposed energy facility may  
26 also include an integrated battery storage system. Proposed related and supporting facilities to  
27 the energy facility would consist of an electrical collection system, 34.5-kV to 230-kV step-up  
28 transformers, a substation, operations and maintenance enclosure, point of interconnection  
29 switching station, private service and access roads, and temporary construction staging areas.  
30 The proposed energy facility and its related or supporting facilities are referred to as the  
31 proposed facility. The proposed facility is anticipated to occupy approximately 270 acres of land  
32 designated as high-value farmland and, as a result, falls within Council jurisdiction.<sup>1</sup> The site is  
33 designated as “high value farmland” because it is located within an irrigation district and in an  
34 exclusive farm use zone.<sup>2</sup> In accordance with ORS 195.300(10)(c)(B), it is therefore defined by  
35 statute as a high value farmland. As a result of this designation, a site certificate from the  
36 Council is required to authorize the construction and operation of the proposed facility.

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<sup>1</sup> ORS 469.300(11)(a)(D) defines EFSC jurisdictional solar photovoltaic power generation facilities.

<sup>2</sup> ORS 195.300(10)(c)(B) defines land in an exclusive farm use zone or a mixed farm and forest zone, and that on June 28, 2007 was within the boundaries of an irrigation district as high-value farmland.

1 On June 12, 2019, ODOE issued a public notice of the NOI to the EFSC mailing list and to  
2 adjacent property owners as defined at OAR 345-020-0011(1)(f). ODOE also published the  
3 notice in the *Madras Pioneer* newspaper that ran on June 19, 2019, and in the *Bend Bulletin*  
4 newspaper which ran on June 20, 2019. The public notice included information regarding the  
5 proposed facility and the EFSC review process, and set July 19, 2019 as the public comment  
6 deadline for the NOI.

7 Pursuant to ORS 469.480(1), EFSC must designate as a Special Advisory Group the governing  
8 body of any local government within whose jurisdiction the facility is proposed to be located. At  
9 the May 16, 2019 EFSC meeting, the Council appointed the Jefferson County Board of County  
10 Commissioners as the Special Advisory Group (SAG).<sup>3</sup>

11 In compliance with OAR 345-021-0050(1), ODOE prepared a memorandum to reviewing  
12 agencies, Tribal Governments, and the Special Advisory Group, and compiled a distribution list,  
13 including all reviewing agencies identified and defined in OAR 345-001-0010(52). In accordance  
14 with ORS 469.350(2) and OAR 345-020-0040, on June 18, 2019 ODOE sent the memorandum  
15 and a copy of the NOI to each of the reviewing agencies listed in Table 1. The Department  
16 requested comments from reviewing agencies on or before July 29, 2019. Consistent with ORS  
17 469.330(3), on July 25, 2019, the Department held an interdisciplinary meeting with reviewing  
18 agencies to discuss the NOI, the proposed facility and the EFSC review process.

19 As discussed in Section V. *Comments on the Notice of Intent*, and in accordance with OAR 345-  
20 015-0140, the Department sent the applicant a copy of each reviewing agency comment letter  
21 received for their review and consideration in preparing the application for site certificate; no  
22 public comments were received on the NOI during the June 12, 2019 through July 19, 2019  
23 comment period.

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<sup>3</sup> Pursuant to ORS 469.480, the governing body of a local government within whose jurisdiction the facility is proposed to be located shall be designated by EFSC as a “special advisory group.”

1

**Table 1. Reviewing Agency Distribution List**

State Agencies	
<ul style="list-style-type: none"> <li>• Oregon Department of Environmental Quality</li> <li>• Oregon Department of Agriculture</li> <li>• Oregon Department of Fish and Wildlife</li> <li>• Oregon Department of Geology and Mineral Industries</li> <li>• Oregon Department of Aviation</li> <li>• Oregon Department of State Lands</li> <li>• Oregon Water Resources Department</li> </ul>	<ul style="list-style-type: none"> <li>• Oregon Department of Forestry</li> <li>• Oregon Public Utilities Commission</li> <li>• Oregon Parks and Recreation Department</li> <li>• Department of Land Conservation and Development</li> <li>• Office of State Fire Marshal</li> <li>• Oregon State Historic Preservation Office</li> </ul>
Native American Tribes	
<ul style="list-style-type: none"> <li>• Burns Paiute Tribe</li> <li>• Klamath Tribe</li> </ul>	<ul style="list-style-type: none"> <li>• Confederated Tribes of the Warm Springs</li> </ul>
Special Advisory Group	
<ul style="list-style-type: none"> <li>• Jefferson County Board of Commissioners</li> </ul>	
Other Reviewing Agencies	
<ul style="list-style-type: none"> <li>• Northwest Power Planning Council</li> <li>• Jefferson County Planning Department</li> </ul>	<ul style="list-style-type: none"> <li>• City of Madras</li> <li>• City of Culver</li> <li>• City of Metolius</li> </ul>

2

3 **II. EFSC REGULATORY FRAMEWORK**

4 Issuance of a site certificate is governed by the statutory requirements in ORS 469.300 *et seq.*  
 5 and administrative rules in OAR chapter 345. The following divisions of OAR Chapter 345  
 6 include rules related to application requirements, EFSC review of an application, and  
 7 construction and operation of an approved facility:

8 **OAR Chapter 345, Division 21** (Site Certificate Application Requirements) includes the  
 9 primary site certificate application requirements (see Section III. *Application*  
 10 *Requirements* of this Project Order).

11 **OAR Chapter 345, Division 22** (Council Standards for Siting Facilities) includes most of  
 12 the regulatory standards by which the EFSC must evaluate the proposed facility. In  
 13 addressing each of the Division 21 application requirements, the applicant shall refer to  
 14 the Division 22 standard to which the requirement relates to ensure the application is  
 15 responsive to the standards by which the Council must evaluate it.

16 **OAR Chapter 345, Division 24** (Specific Standards for Siting Facilities) includes additional  
 17 standards for specific types of EFSC applications. In addressing the Division 21  
 18 application requirements, the application shall refer to the Division 24 standards that  
 19 apply to the proposed facility to ensure the application is responsive to these standards.  
 20 The Division 24 standards that apply to the proposed facility is OAR 345-024-0090, Siting  
 21 Standards for Transmission Lines.

22 **OAR Chapter 345, Division 25** (Site Certificate Conditions) includes the mandatory  
 23 conditions that EFSC must apply to all site certificates, as well as applicable site-specific  
 24 and monitoring conditions. Note that per the mandatory condition included at OAR 345-  
 25 025-0006(10), the Council will include as conditions in the site certificate, if issued, all

1 representations of mitigation made in the application and supporting record the Council  
2 deems to be binding commitments made by the applicant.

3 **OAR Chapter 345, Division 26** (Construction and Operation Rules for Facilities) includes  
4 the compliance plan requirements that will apply if the Council issues a site certificate  
5 for the proposed facility. In addressing the Division 21 application requirements, the  
6 applicant shall refer to the compliance plan requirements, described in OAR 345-026-  
7 0048, and reporting requirements, described in OAR 345-026-0080. Note that, if a site  
8 certificate is issued, the certificate holder must also comply with additional  
9 construction- and operation-related regulations that may apply to the proposed facility  
10 but that may not be covered by the site certificate, per ORS 469.401(4).

### 11 12 **III. APPLICATION REQUIREMENTS**

13 The applicant must adhere to the general requirements under OAR 345-021-0000, including, for  
14 all state and local government agency permit approvals that the applicant proposes to be  
15 included in and governed by the site certificate, the submittal of information that would  
16 otherwise be required by the state or local government agency in an application for such  
17 permit, license or certificate [OAR 345-021-0000(6)]. The applicant shall also submit copies of  
18 the applications for federally-delegated permits that are needed for construction or operation  
19 of the proposed facility [OAR 345-021-0000(7)]. OAR 345-021-0010(1) identifies the required  
20 contents of an application for a site certificate. Each of the paragraphs below indicates which  
21 provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the proposed Madras Solar Energy  
22 Facility. The application shall also include the information described in OAR 345-021-0010(3).

#### 23 **(a) Exhibit A – General Information about the Applicant**

24 **Applicable Paragraphs:** All paragraphs apply except (C), (E), (F), and (G)

25 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

26 **Discussion:** Note that paragraph (B) calls for a list of “participating persons, other than  
27 individuals.” Please note the definition of “Person” in ORS 469.300(21). Please also note that  
28 the applicant is required to notify the Department of any change in the identity or ownership of  
29 the applicant prior to the change.

#### 30 **(b) Exhibit B – General Information about the Proposed Facility**

31 **Applicable Paragraphs:** All paragraphs apply except (A)(vi), (A)(vii), (A)(viii), (D), and (E).

32 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

33 **Discussion:** The description of the proposed facility in the application will form the basis for the  
34 description of the facility in the site certificate. Please note that construction laydown yards  
35 must be considered in the application. The site certificate, if issued, would require that the  
36 applicant build the facility “substantially as described” (OAR 345-025-0006(3)). The application  
37 shall also describe all related or supporting facilities, including access roads, operations and  
38 maintenance buildings, electrical collection lines, 34.5-kV to 230-kV step-up transformers, a  
39 substation, operations and maintenance enclosure, point of interconnection switching station,

1 potentially a battery storage system, and any other related and supporting facility proposed by  
2 the applicant. Please note the definition of related or supporting facilities at ORS 469.300(24)  
3 includes those existing structures that must be substantially modified in connection with the  
4 energy facility construction or operation

5 **(c) Exhibit C – Location**

6 **Applicable Paragraphs:** All paragraphs apply.

7 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

8 **Discussion:** Maps shall indicate the “site boundary” as defined in OAR 345-001-0010(55). Maps  
9 shall provide enough information for property owners potentially affected by the proposed  
10 facility to determine whether their property is within or adjacent to the site boundary. Major  
11 roads should be accurately named. The Department notes that the applicant has already shared  
12 GIS data for the proposed facility, and requests updated GIS data if there are changes to the  
13 site boundary or proposed facility layout between the NOI and the submittal of the preliminary  
14 application.

15 **(d) Exhibit D – Organizational Expertise**

16 **Applicable Paragraphs:** All paragraphs apply.

17 **Related Council and Other Standards:** Organizational Expertise [OAR 345-022-0010]

18 **Discussion:** The Council’s review for the Organizational Expertise standard includes the  
19 applicant’s ability to construct, operate, and retire the proposed facility in compliance with  
20 Council standards and conditions of the site certificate. Please note that Exhibit D requires that  
21 if the applicant relies upon mitigation to meet any applicable Council standard, that the  
22 applicant provide evidence that it can successfully complete such proposed mitigation.

23 **(e) Exhibit E – Permits**

24 **Applicable Paragraphs:** All paragraphs apply.

25 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

26 **Discussion:** Exhibit E shall describe and discuss all permits that the applicant proposes to be  
27 included in and governed by the site certificate, as well as state and local permits that are  
28 related to the siting, construction, or operation of the proposed facility but are proposed by the  
29 applicant to not be included in and governed by the site certificate. Exhibit E shall also describe  
30 required federal and federally-delegated permits. For federally-delegated permits needed for  
31 construction or operation, the applicant must submit a copy of the permit application to the  
32 Department, as required under OAR 345-021-000(7).

33 Although the Council does not have jurisdiction over federally-delegated permits, the Council  
34 may rely on the determinations of compliance and the conditions in federally-delegated  
35 permits in evaluating the application for compliance with Council standards.

1 **Federally-delegated Permits**

2 ***Oregon Department of Environmental Quality — Water Quality Division***

3 **Statute and Rule References**

- 4 • ORS Chapter 468B (Water Quality)
- 5 • OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and WPCF Permits)

6 **Permits**

- 7 • National Pollution Discharge Elimination System (NPDES) Construction Storm Water  
8 1200-C permit

9 **Discussion**

10 The EPA has delegated authority to DEQ to issue NPDES Storm Water Discharge permits for  
11 construction and operation activities. Based upon the information in the NOI, a NPDES 1200-C  
12 permit will be required for the construction of the facility. In accordance with OAR 345-021-  
13 0000(7), the applicant must submit to the Department one copy of all applications for federally-  
14 delegated permits (including the NPDES permit), or provide a schedule of the date by which the  
15 applicant intends to submit the application. Note that the Department will not be able to find  
16 the application for site certificate complete before receiving a copy of the NPDES permit  
17 application and a response letter from the DEQ. The DEQ response letter must state that the  
18 agency has received a permit application from the applicant, and provide an estimated date  
19 when the agency will complete its review and issue a permit decision. The applicant may  
20 incorporate this information into Exhibit I (Soils) or Exhibit BB (Other Information) of the site  
21 certificate application.

22 **State Permits**

23 ***Oregon Department of Environmental Quality***

24 **Statute and Rule References**

- 25 • ORS Chapter 468B (Water Quality)
- 26 • OAR Chapter 340, Division 45 (Regulations Pertaining to NPDES and WPCF Permits)
- 27 • OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality  
28 Requirements and Standards)

29 **Permits**

- 30 • WPCF 1700-B Washwater Discharge from Equipment Cleaning
- 31 • WPCF General Permit 1000
- 32 • Clean Water Act Section 401 Water Quality Certification

33 **Discussion**

34 Disposal of solar panel wash water would require a WPCF 1700-B Washwater Discharge from  
35 Equipment Cleaning permit and disposal of concrete batch plant wash water (if a temporary



1 batch plant is necessary) would require a WPCF General Permit 1000. A WPCF 1700-B and  
2 WPCF General Permit 1000 are state permits under Council jurisdiction. If the applicant’s third-  
3 party contractor would obtain the necessary WPCF 1700-B permit directly from DEQ, this  
4 permit would not be included in and governed by the site certificate (see the Third-Party  
5 Permits discussion below).

6 The 401 Water Quality Certification (WQC) is required for projects that are processed under the  
7 U.S. Army Corps of Engineers Section 404 Nationwide Permits. If a Section 404 Permit is needed  
8 from U.S. Army Corps of Engineers (Corps) for the discharge of dredge or fill material in waters  
9 of the United States, a Section 401 Water Quality Certificate must be granted by DEQ before a  
10 Section 404 permit may be issued. The 401 WQC is not federally-delegated. The Department  
11 has determined that the 401 WQC permit is a state permit related to siting of an energy facility,  
12 and if required to be secured by a developer of an EFSC-jurisdictional energy facility, the 401  
13 WQC is subject to EFSC jurisdiction. However, 401 WQC permits have strict timing  
14 considerations that may not be possible to meet via the EFSC review. Additionally, there are  
15 further technical review criteria that are best managed by DEQ. As such, the Department does  
16 not consider that 401 WQC permits should be considered in or governed by the site certificate,  
17 and if one is required for the proposed Madras Solar Energy Facility, it should be secured by the  
18 applicant outside of the site certificate process.

19 ***Oregon Water Resources Department***

20 **Statute and Rule References**

- 21 • ORS 537.505-.795 and ORS 537.992
- 22 • OAR Chapter 690, Division 340 (Water Use Authorizations)

23 **Permits**

- 24 • Water Right Permit or Water Use Authorization
- 25 • Limited License

26 **Discussion**

27 As represented in NOI Exhibit E, the applicant does not anticipate the need for a Water Right  
28 Permit or Water Use Authorization, and intends to obtain water for facility construction and  
29 operation from an offsite municipal or commercial source. If water for construction and  
30 operation is not available from permitted sources, and after considering alternate sources,  
31 water may be obtained from a new well permitted under a limited water use license. The  
32 applicant explains that if water for construction and operation is not available from permitted  
33 sources, the applicant would obtain the necessary water right permit or water use  
34 authorization. Water right permits, limited water use licenses, and other water authorizations  
35 for EFSC-jurisdictional energy facilities are subject to review and authorization by EFSC, and this  
36 permit would be included in and governed by the site certificate.

37

1 A limited water license or permit would be required if the well would provide more than 5,000  
2 gallons of water per day, and if necessary, a limited that license or permit would be included  
3 and governed by the site certificate.

4 ***Oregon Department of Transportation***

5 **Statute and Rule References**

- 6 • ORS 818.030 (Exemptions from Weight Limitations)
- 7 • OAR Chapter 734, Division 82 (Variance Permits Issued for Non-Divisible Loads and Road  
8 Use Assessment Fees)
- 9 • OAR Chapter 734, Division 51 (Highway Approaches, Access Control, Spacing Standards,  
10 and Medians)
- 11 • OAR Chapter 734, Division 55 (Pole Lines, Buried Cables, and Miscellaneous Operations)

12 **Permits**

- 13 • Oversize Load Movement Permit/Load Registration

14 **Discussion**

15 Various permits from Oregon Department of Transportation (ODOT) may be required prior to  
16 construction of the facility. Movement of construction cranes and other large equipment and  
17 materials could also require an Oversize Load Movement permit. This permit is not related to  
18 facility siting and is not included in or governed by the site certificate. The applicant or its  
19 contractor must secure any applicable ODOT permits directly from ODOT, independent of the  
20 site certificate process. The impacts associated with road use and modifications, however, must  
21 be evaluated in Exhibit U.

22 ***State Historic Preservation Office***

23 **Statute and Rule References**

- 24 • ORS Chapter 97, 358, and 390;
- 25 • OAR Chapter 736, Division 51

26 **Permits**

- 27 • Archaeological Permit

28 **Discussion**

29 This permit may be required if excavation is needed within the boundaries of an NRHP-listed or  
30 likely listed resource, an archaeological object or archaeological site (see also Exhibit S  
31 discussion below). If such a permit is required, it is subject to EFSC jurisdiction and would be  
32 included in and governed by the site certificate.

1 **Local Permits**

2 **Local Land Use References**

- 3 • Jefferson County Comprehensive Plan
- 4 • Jefferson County Zoning Ordinance
- 5 • Jefferson County Road Department

6 **Permits**

- 7 • Jefferson County Conditional Use Permit
- 8 • Jefferson County Building Permit
- 9 • Jefferson County Right-of-Way Permit

10 Jefferson County has permitting requirements that relate to the siting, construction or  
11 operation of the proposed facility. The applicant shall identify those permits or approvals and  
12 include an analysis of whether each should be included in and governed by the site certificate.

13 As stated in the NOI, the applicant requests that EFSC determine compliance with the  
14 substantive criteria of all affected local governments' comprehensive plans and land use  
15 ordinances under ORS 469.504(1)(b). The conditional use permit shall be included in and  
16 governed by the site certificate. The other listed Jefferson County permitting requirements are  
17 not related to facility siting and as such shall not be included in or governed by the site  
18 certificate, and the applicant shall secure any such permits independent of the site certificate  
19 process. Building permits are specifically excluded from EFSC jurisdiction by statute, ORS  
20 469.401(4).

21 **Third-Party Permits**

22 As noted in the NOI, the applicant may rely upon third-party permits in its application for site  
23 certificate. If the applicant relies upon a state or local government permit issued to a third party  
24 that is related to the siting of the proposed facility, the applicant must identify each third-party  
25 permit, and, for each, include evidence that the applicant has, or has a reasonable likelihood of  
26 entering into, a contract or other agreement with the third party for access to the resource or  
27 service to be secured by that permit; evidence that the third party has or, has a reasonable  
28 likelihood of obtaining, the necessary permit; and, an assessment of the impact of the proposed  
29 facility on any permits that a third party has obtained and on which the applicant relies to  
30 comply with any applicable Council standard (OAR 345-021-0010(1)(e)(E)).

31 If the applicant relies on a federally-delegated permit issued to a third party that is related to  
32 the siting of the proposed facility, the applicant must identify the third-party permit and include  
33 evidence that the applicant has, or has a reasonable likelihood of entering into, a contract or  
34 other agreement with the third party for access to the resource or service to be secured by that  
35 permit. The applicant must provide evidence that the responsible agency has received the  
36 permit application, and provide the estimated date when the responsible agency will complete  
37 its review and issue a permit decision (OAR 345-021-0010(1)(e)(F)).

1 Note that the Organizational Expertise standard (OAR 345-022-0010(4)) allows Council to issue  
2 a site certificate with a condition requiring third parties to secure necessary permits or  
3 approvals prior to facility construction.

4 **(f) Exhibit F – Property Owners**

5 **Applicable Paragraphs:** Paragraph (C) of the Rule applies.

6 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

7 **Discussion:** As the proposed facility would be located entirely within Exclusive Farm Use zoned  
8 land, OAR 345-020-0011(1)(f)(C) applies and requires notice to property owners within 500 feet  
9 of the site boundary. Please note that Council is currently undertaking rulemaking, and if  
10 approved as currently proposed, would require that the property owner notification extend  
11 from the property on which the facility is proposed to be located, not from the site boundary.  
12 Council is anticipated to review and decide on the rulemaking proposal at its August 23, 2019  
13 meeting.

14

15 The Council requires notice to all owners of record, as shown on the most recent property tax  
16 assessment roll within the specified distance from the proposed site boundary. In order to  
17 ensure notifications are provided using an up-to-date property owner list, Exhibit F in the pASC  
18 should indicate that, pursuant to direction by the Department, the property owner list will be  
19 generated within 60 days of the Department’s determination of application completeness and  
20 in coordination with Department staff.

21

22 The property owner notification list must be accompanied by maps that include the site  
23 boundary, the area surrounding the site boundary consistent with the OAR 345-021-  
24 0010(1)(f)(C) site distance requirement, and the properties/tax lots that are within the  
25 applicable distances. Maps should correspond to the property owner list, be legible and clearly  
26 identify tax lot ID numbers as well as adjacent road names, as applicable.

27 **(g) Exhibit G – Materials Analysis**

28 **Applicable Paragraphs:** All paragraphs apply.

29 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; Soil  
30 Protection [OAR 345-022-0022]

31 **Discussion:** The applicant shall include in the application any proposed fuel storage areas,  
32 vehicle maintenance areas, or other areas that will be utilized for activities that could store  
33 hazardous materials, including potential battery storage facilities. The applicant shall identify  
34 the expected storage locations and quantities of hazardous and non-hazardous materials  
35 expected to be used during construction and operation of the proposed facility.

36

37 The DEQ Hazardous Waste program implements requirements of the EPA and is a federally  
38 delegated program. The applicant shall comply with DEQ regulations concerning the storage  
39 and management of hazardous materials and the clean-up and disposal of hazardous waste.

1       **(h) Exhibit H – Geologic and Soil Stability**

2       **Applicable Paragraphs:** All paragraphs apply

3       **Related Council and Other Standards:** Structural Standard [OAR 345-022-0020]

4       **Discussion:** The Oregon Department of Geology and Mineral Industries (DOGAMI) provides  
5 technical review and recommendations on compliance with the Council’s Structural Standard.  
6 The applicant must provide a summary of consultation with DOGAMI regarding the appropriate  
7 methodology and scope of the seismic hazards and geology and soil-related hazards  
8 assessments, and the appropriate site-specific geotechnical work that should be performed for  
9 the application, if any.

10 A geologic report included in Exhibit H, if necessary, shall meet the Oregon State Board of  
11 Geologist Examiners geologic report guidelines, as determined based on consultation with  
12 DOGAMI.

13 As described in the Structural Standard at OAR 345-022-0020(2), the Council may not impose  
14 the Structural Standard to approve or deny an application for site certificate for a proposed  
15 facility that would produce power from solar energy, though the Council may apply the  
16 requirements of OAR 345-022-0020(1) to impose conditions on a site certificate issued for  
17 such a facility.

18       **(i) Exhibit I – Soils**

19       **Applicable Paragraphs:** All paragraphs apply.

20       **Related Council and Other Standards:** Soil Protection [OAR 345-022-0022]

21       **Discussion:** This exhibit should identify the major soil types and include a description of current  
22 and historical, if distinct from current, land uses that require or depend on productive soils. The  
23 applicant shall include information describing the impact of construction and operation of the  
24 proposed facility on soil conditions in the analysis area, including potential impacts to soils on  
25 adjacent properties. The application can cross-reference information related to the federally-  
26 delegated NPDES 1200-C permit application, as applicable. An erosion and sediment control  
27 plan must be provided for review if the applicant will rely upon the erosion and sediment  
28 control plan to meet the Soil Protection standard. Please note that an erosion and sediment  
29 control plan that meets the NPDES 1200-C requirements may not necessarily be sufficient to  
30 meet the EFSC Soil Protection standard.

31       **(j) Exhibit J – Waters of the State and Removal-Fill**

32       **Applicable Paragraphs:** All paragraphs apply.

33       **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000];  
34 Removal of Material, Filling [ORS 196.795-.990]; Administrative Rules Governing the Issuance  
35 and Enforcement of Removal-Fill Authorizations within Waters of Oregon Including Wetlands  
36 [OAR Chapter 141, Division 85]

37       **Discussion:** Per the Exhibit J requirement, the application shall include a description of all areas  
38 within the site boundary that might be waters of this state and a map(s) showing the location of

1 these features. Based on the NOI, ODOE understands that there are three ephemeral streams  
2 within the site boundary, but that the ephemeral streams are not considered waters of the  
3 state, and as such, a removal-fill permit is not expected to be necessary for the facility. For  
4 EFSC-jurisdictional facilities, authorization of a removal-fill permit is an EFSC decision, should a  
5 permit be required. DSL and the Department would maintain the ongoing responsibility for  
6 compliance with any associated permit conditions.

7 **(k) Exhibit K – Land Use**

8 **Applicable Paragraphs:** Paragraphs (A) and (C) of the rule apply.

9 **Related Council and Other Standards:** Land Use [OAR 345-022-0030];

10 **Discussion:** The Council’s Land Use standard requires an evaluation for compliance with the  
11 statewide planning goals. Under 469.504(1), the applicant may establish compliance with the  
12 applicable statewide planning goals either by obtaining local land use approval under ORS  
13 469.504(1)(a) or by obtaining Council approval under ORS 469.504(1)(b). The applicant has  
14 indicated in the NOI that it has elected to seek a Council determination of compliance under  
15 ORS 469.504(1)(b). Within Exhibit K, since the applicant has elected to obtain a Council  
16 determination on land use under ORS 469.504(1)(b), paragraphs A and C of OAR 345-021-  
17 0010(1)(k) apply; paragraph B does not apply. The Department understands that the proposed  
18 facility is not located on federal land, so paragraph (D) does not apply.

19 The facility would be located on EFU-zoned land in Jefferson County. Pursuant to ORS 469.480  
20 and in preparation for review of the proposed facility, at its May 16, 2019 meeting the Council  
21 appointed the Jefferson County Board of Commissioners as a Special Advisory Group. As  
22 provided in ORS 469.401(3), if the Council issues a site certificate, Jefferson County would be  
23 bound to issue all required permits and other land use approvals, subject to the conditions set  
24 forth in the site certificate, that are included in and governed by the site certificate. The  
25 applicant should discuss each applicable substantive criteria from the Jefferson County  
26 Comprehensive Plan and Jefferson County Zoning Ordinance, and should demonstrate how the  
27 proposed facility complies with those criteria. If the proposed facility does not comply with one  
28 or more of the applicable substantive criteria, the applicant must demonstrate that the  
29 proposed facility nevertheless complies with the applicable statewide planning goals or that an  
30 exception to a goal is justified under ORS 469.504(2) and OAR 345-022-0030(4).

31 Exhibit K shall also provide evidence that the proposed facility would comply with any directly-  
32 applicable Land Conservation and Development Commission (LCDC) administrative rules and  
33 statutory requirements related to the proposed facility, including ORS 215.283, and specifically  
34 including all requirements regarding the location of the proposed facility within the EFU zone.  
35 Exhibit K shall provide evidence that the proposed facility would comply with the applicable  
36 administrative rules at OAR 660-033-0130(38) related to development of solar power  
37 generation facilities.

38 Should the proposed facility require a temporary onsite concrete batch plant, a Jefferson  
39 County Conditional Use Permit (CUP) may be needed. The applicant may either choose to  
40 permit the batch plant itself and include it as a related and supporting facility component to the  
41 proposed energy facility, or utilize a batch plant provided by a third-party contractor. If the

1 batch plant is to be included as a related or supporting facility component and proposed by the  
2 applicant itself, and a CUP is determined to be needed, evidence of compliance with the  
3 county's CUP criteria related to a concrete batch plant must be included in the site certificate  
4 application. If a third-party provider is to be used, any necessary permits including a county  
5 CUP, that may be necessary to operate the batch plant, may be secured by the third-party and  
6 would not be included in or governed by the site certificate. However, per OAR 345-022-0010,  
7 Council may include a site certificate condition that the certificate holder shall not commence  
8 construction until the third party has obtained the necessary permit(s) or approval(s) and the  
9 applicant has a contract or other arrangement for access to the resource or service secured by  
10 that permit or approval.

11 Solar photovoltaic facilities that are proposed to use more than 12 acres of high-value farmland  
12 such as the proposed Madras Solar Facility, require a Goal 3 exception. The Council's goal  
13 exception process is described at OAR 345-022-0030(4). A Goal 3 exception is necessarily based  
14 on site-specific issues and reasons; as such, the applicant must provide site-specific evidence  
15 that the proposed facility should be granted a Goal 3 exception. Site-specific evidence  
16 supporting a Goal 3 exception may include but is not limited to; local economic benefits taking  
17 into consideration any loss in farm production, potential impacts to existing farming operations  
18 including irrigated farmland, minimal impact to high quality native habitat, and the availability  
19 of existing infrastructure in proximity to the facility. Council has recently granted Goal 3  
20 exceptions for solar energy facilities for the Montague Wind Power Facility Request for  
21 Amendment 4, Boardman Solar Facility, and Carty Generating Station Request for Amendment  
22 1. The Department recommends that the Madras Solar Facility applicant review the final order  
23 findings associated with those facilities for information regarding Council's considerations in  
24 granting a Goal 3 exception.

25 **(I) Exhibit L – Protected Areas**

26 **Applicable Paragraphs:** All paragraphs apply.

27 **Related Council and Other Standards:** Protected Areas [OAR 345-022-0040]

28 **Discussion:** The application must address the potential impacts to protected areas identified in  
29 OAR 345-022-0040 within the analysis area. Please note that compliance with the DEQ noise  
30 rules (Exhibit X) does not correlate to compliance with the noise assessment considered in the  
31 Protected Areas standard. Particularly, while construction noise is exempt from the DEQ noise  
32 rules, construction noise must be considered under the Protected Areas standard. However,  
33 information developed to demonstrate compliance with the DEQ noise rules (such as noise  
34 modeling) can be used in the assessment under the Protected Areas standard. A visual impact  
35 assessment is required as part of Exhibit L; while no specific methodology is required by EFSC  
36 rule, the applicant must demonstrate why the proposed facility is compliant with the Protected  
37 Areas standard. Visual simulations or other visual representations are not required, but can  
38 provide important evidence for use by the Department and Council in understanding the  
39 potential visual impact of the proposed facility to Protected Areas.

1           **(m) Exhibit M – Financial Capability**

2           **Applicable Paragraphs:** All paragraphs apply.

3           **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

4           **Discussion:** The application shall include information about the applicant’s financial capability,  
5 including the applicant’s legal authority to construct and operate the proposed facility without  
6 violating its bond indenture provisions, articles of incorporation, common stock covenants, or  
7 similar agreements. To find that the proposed facility satisfies the Financial Assurance Standard  
8 (OAR 345-022-0050(2)), the Council must find that the applicant has a reasonable likelihood of  
9 obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore  
10 the site to a useful, non-hazardous condition.

11 The application shall include the type and amount of the applicant’s proposed bond or letter of  
12 credit to satisfy the requirements of OAR 345-022-0050. The Council does not have a standard  
13 methodology for assessing the retirement cost estimate. The applicant should select a  
14 reasonable method and document in the application the process and assumptions associated  
15 with developing the cost estimate.

16           **(n) Exhibit N – Non-Generating Facility Need**

17           **Applicable Paragraphs:** Exhibit N does not apply because the proposed facility is not a  
18 nongenerating facility for which the applicant must demonstrate need for the facility.

19           **(o) Exhibit O – Water Use**

20           **Applicable Paragraphs:** All paragraphs apply except (D).

21           **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; OAR  
22 690, Divisions 310 and 380 (Water Resources Department permitting requirements)

23           **Discussion:** Exhibit O of the application must describe water use during construction and  
24 operation of the proposed facility. The application must identify the sources of water to be  
25 used, and include an estimate of the amount of water the facility will need during construction  
26 and during operation from each source under annual average and worst-case conditions.

27 If the proposed facility does not need a groundwater permit, a surface water permit, or a water  
28 right transfer, Exhibit O shall include an explanation as to why such a permit or transfer is not  
29 required for construction and operation of the proposed facility, as required by paragraph (E). If  
30 such a permit is necessary, the application shall include the evidence and application materials  
31 to support a determination by Council that OWRD should issue such a permit.

32           **(p) Exhibit P – Fish and Wildlife Habitat**

33           **Applicable Paragraphs:** All paragraphs apply.

34           **Related Council and Other Standards:** Fish and Wildlife Habitat [OAR 345-022-0060]

35           **Discussion:** The applicant shall consult with ODFW in developing the application materials.  
36 Exhibit P shall include analysis of how the evidence provided supports a finding by the Council  
37 that the proposed facility meets the Council’s Fish and Wildlife Habitat standard. OAR 345-021-  
38 0010(1)(p) provides that exhibit P must include a description of biological and botanical surveys



1 performed that support the information in this exhibit, including a discussion of the timing and  
2 scope of each survey. Exhibit P must also provide baseline surveys of all state sensitive species  
3 that may be present in the analysis area performed according to a protocol approved by the  
4 Department and ODFW.

5 If fish and wildlife habitat or state sensitive species are identified within the analysis area that  
6 could be adversely affected as a result of the proposed facility, the applicant shall include a  
7 description of the nature, extent, and duration of potential adverse impacts and a description  
8 of any proposed mitigation measures, consistent with the Exhibit P requirements, the EFSC Fish  
9 and Wildlife Habitat standard, and the ODFW Habitat Mitigation Policy.

10 Oregon Fish and Wildlife Habitat Mitigation Policy (OAR Chapter 635, Division 415) classifies six  
11 habitat categories and establishes a mitigation goal for each category. The applicant must  
12 identify the appropriate habitat category for all areas affected by the proposed facility and  
13 provide the basis for each category designation. The habitat classification is subject to the  
14 Department and ODFW review. A map showing the different habitat categories is required  
15 under sub-paragraph (C) of OAR 345-021-0010(1)(p), and inclusion of vegetation classes within  
16 the map is recommended. The map must be of sufficient scale to show details. Exhibit P must  
17 include tables depicting the estimated temporary and permanent impacts, broken down by  
18 habitat categories and subtype. The applicant must show how it would comply with the habitat  
19 mitigation goals and standards by appropriate monitoring and mitigation, including measures  
20 proposed by the applicant to avoid, reduce, or mitigate adverse impacts on habitat and state  
21 sensitive species. This information should be incorporated into a proposed Revegetation and  
22 Noxious Weed Control Plan and a proposed Habitat Mitigation Plan (HMP) as attachments to  
23 Exhibit P. Exhibit P and the HMP must clearly demonstrate how the applicant will provide  
24 mitigation, including compensatory mitigation, in accordance with the Council's standard. This  
25 includes identifying in the HMP a specific habitat mitigation area that could be used to provide  
26 compensatory mitigation, as well as ecological uplift mitigation actions that could be  
27 implemented at the habitat mitigation area to provide the appropriate mitigation. This  
28 information is required for the Department to find the application complete.

29 **(q) Exhibit Q – Threatened and Endangered Species**

30 **Applicable Paragraphs:** All paragraphs apply.

31 **Related Council and Other Standards:** Threatened and Endangered Species [OAR 345-022-  
32 0070]

33 **Discussion:** The Oregon Department of Agriculture provides technical review and  
34 recommendations regarding compliance with the Council's Threatened and Endangered Species  
35 standard (OAR 345-022-0070) as it relates to plant species, and ODFW provides technical  
36 review and recommendations related to fish and wildlife species.

37 The application should include a list of state-listed endangered and threatened, species that  
38 have potential to occur in the analysis area. The applicant should identify these species based  
39 on a review of literature, consultation with knowledgeable individuals, and reference to the list  
40 of species maintained by the Oregon Biodiversity Information Center.

1 For state-listed threatened or endangered plant species, field surveys are required for any  
2 species that may occur within the analysis area and may potentially be impacted by the facility.  
3 The applicant should consult with ODFW regarding field survey methods, appropriate survey  
4 seasons, qualifications of field survey personnel, and the information to be included in a field  
5 survey report.

6 **(r) Exhibit R – Scenic Resources**

7 **Applicable Paragraphs:** All paragraphs apply.

8 **Related Council and Other Standards:** Scenic Resources [OAR 345-022-0080]

9 The application should include an analysis of significant potential impacts of the proposed  
10 facility, if any, on scenic resources identified as significant or important in local land use plans,  
11 tribal land management plans and federal land management plans for any lands located within  
12 the analysis area. For the purposes of Exhibit R, “local” land use plans include state, county, and  
13 city planning documents or inventories. The applicant shall also describe the measures it  
14 proposes to avoid, reduce, or otherwise mitigate any significant adverse impacts to these scenic  
15 resources. A visual impact assessment is required as part of Exhibit R; while no specific  
16 methodology is required by EFSC rule, the applicant must demonstrate why the proposed  
17 facility is compliant with the Scenic Resources standard. Visual simulations or other visual  
18 representations are not required, but can provide important evidence for use by the  
19 Department and Council in understanding the potential visual impact of the proposed facility to  
20 Scenic Resources.

21 **(s) Exhibit S – Historic, Cultural and Archaeological Resources**

22 **Applicable Paragraphs:** All paragraphs apply.<sup>4</sup>

23 **Related Council and Other Standards:** Historic, Cultural, and Archaeological Resources [OAR  
24 345-022-0090]

25 **Discussion:** The application shall include the survey methodology, survey areas, and the results  
26 of all surveys conducted for historic, cultural, and archaeological resources, as well as an  
27 analysis of any significant adverse impacts anticipated and proposed mitigation measures. The  
28 applicant should work closely with the State Historic Preservation Office (SHPO) to understand  
29 the report formatting and submission requirements, and to receive guidance on any survey  
30 protocols.

31 The applicant is not required to perform comprehensive field surveys of the entire analysis area  
32 if another method of impact assessment is suitable. However, the Department reserves the  
33 right to require field surveys if it is determined that a different method of analysis is insufficient

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<sup>4</sup> Information concerning the location of archaeological sites or objects may be exempt from public disclosure under ORS 192.501(11). Specific location information about cultural resources should not be included in the text of application for a site certificate. Such information, including archaeological survey reports, should be provided confidentially under separate cover in hard copy format only after consultation with the Department. Confidential material shall also be provided directly to SHPO, following guidance from the Department and SHPO. Please contact the Department to discuss current practices regarding treatment and submittal of confidential material.

1 to provide the level of information necessary to find the application complete. It is  
2 recommended that the Department be consulted if the applicant wishes to propose alternative  
3 methods of analysis than field surveys.

4 It is recommended that the applicant discuss the proposed facility with the potentially affected  
5 tribes identified by the Legislative Commission on Indian Services, including the Confederated  
6 Tribes of Warm Springs and the Burns Paiute Tribe.

7 As described in the Historic, Cultural, and Archaeological Resources standard at OAR 345-022-  
8 0090(2), the Council may issue a site certificate for a facility that would produce power from  
9 solar energy without making the findings of the Historic, Cultural, and Archaeological Resources  
10 standard at OAR 345-022-0090(1), though the Council may apply the requirements of OAR 345-  
11 022-0090(1) to impose conditions on a site certificate issued for such a facility.

12 **(t) Exhibit T – Recreation**

13 **Applicable Paragraphs:** All paragraphs apply.

14 **Related Council and Other Standards:** Recreation [OAR 345-022-0100]

15 **Discussion:** The application shall analyze the importance of recreational opportunities in the  
16 analysis area using the factors listed in OAR 345-022-0100(1), discuss any significant potential  
17 adverse impacts to important recreational opportunities, and describe measures proposed to  
18 avoid, minimize or mitigate those impacts. Please list all recreational opportunities in the  
19 analysis area and the applicant’s analysis of whether those recreational opportunities are  
20 considered “important” or not. As described under the Protected Areas standard section above,  
21 please note that compliance with the DEQ noise rules (Exhibit X) does not correlate to  
22 compliance with the noise assessment considered in the Recreation standard. Particularly,  
23 while construction noise is exempt from the DEQ noise rules, construction noise must be  
24 considered under the Recreation standard. However, information developed to demonstrate  
25 compliance with the DEQ noise rules (such as noise modeling) can be used in the assessment  
26 under the Recreation standard. A visual impact assessment is required as part of Exhibit T;  
27 while no specific methodology is required by EFSC rule, the applicant must demonstrate why  
28 the proposed facility is compliant with the Recreation standard. Visual simulations or other  
29 visual representations are not required, but can provide important evidence for use by the  
30 Department and Council in understanding the potential visual impact of the proposed facility to  
31 important Recreation sites.

32 **(u) Exhibit U – Public Services**

33 **Applicable Paragraphs:** All paragraphs apply.

34 **Related Council and Other Standards:** Public Services [OAR 345-022-0110]

35 **Discussion:** The application shall provide information related to the proposed facility’s potential  
36 impacts to the ability of public and private providers within the analysis area to provide: sewers  
37 and sewage treatment, water, storm water drainage, solid waste management, housing, traffic  
38 safety, police and fire protection, health care and schools (OAR 345-022-0110). Applications for  
39 site certificate typically include letters from local public services providers, including local fire  
40 departments and police departments, to demonstrate that the proposed facility will not cause a

1 significant adverse impact on the ability of those providers to provide their services, in  
2 accordance with the Public Services standard.

3 As described in the Public Services standard at OAR 345-022-0110(2), the Council may issue a  
4 site certificate for a facility that would produce power from solar energy without making the  
5 findings of the Public Services standard at OAR 345-022-0110(1), though the Council may apply  
6 the requirements of OAR 345-022-0110(1) to impose conditions on a site certificate issued for  
7 such a facility.

8 **(v) Exhibit V – Solid Waste and Wastewater**

9 **Applicable Paragraphs:** All paragraphs apply

10 **Related Council and Other Standards:** Waste Minimization [OAR 345-022-0120]; Public Services  
11 [OAR 345-022-0110]

12 **Discussion:** To support a finding by the Council as required by OAR 345-022-0120, the  
13 application shall provide information about the applicant’s plans to minimize the generation of  
14 solid waste and wastewater in the construction and operation of the facility, and to recycle or  
15 reuse solid waste and wastewater. Information in Exhibit V may be incorporated by reference in  
16 Exhibit U’s discussion of impacts to solid waste and wastewater service providers.

17 As described in the Waste Minimization standard at OAR 345-022-0120(2), the Council may  
18 issue a site certificate for a facility that would produce power from solar energy without making  
19 the findings of the Waste Minimization standard at OAR 345-022-0120(1), though the Council  
20 may apply the requirements of OAR 345-022-0120(1) to impose conditions on a site certificate  
21 issued for such a facility.

22 **(w) Exhibit W – Facility Retirement**

23 **Applicable Paragraphs:** All paragraphs apply.

24 **Related Council and Other Standards:** Retirement and Financial Assurance [OAR 345-022-0050]

25 **Discussion:** The application is required to provide an estimate of the total and unit retirement  
26 costs per acre of development (not per megawatt), including a detailed explanation,  
27 assumptions, and justification of the methodology it uses to estimate site restoration costs. The  
28 Council’s Retirement Standard requires evidence that the site can be restored, following facility  
29 retirement, to a useful and non-hazardous condition. The Council does not have a standard  
30 methodology for assessing the retirement cost estimate. The applicant should select a  
31 reasonable method and document in the application the process and assumptions associated  
32 with developing the cost estimate.

33 **(x) Exhibit X – Noise**

34 **Applicable Paragraphs:** All paragraphs apply.

35 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]; DEQ  
36 Noise Control Regulations [ORS 467.020 and ORS 467.030; OAR 340, Division 35]

37 **Discussion:** The application shall contain a noise analysis and information to support a Council  
38 finding that the proposed facility would comply with applicable DEQ noise control standards in

1 OAR 340-035-0035. The analysis must include all potential noise-generating components of the  
2 facility including, but limited to the solar photovoltaic module tables and trackers, cabling,  
3 inverters, transformers, and switchgear.

4 Please note that the Exhibit X analysis area includes all noise sensitive receptors that could  
5 experience a predicted 10 or 50 A-weighted decibel (dBA) increase from the proposed facility in  
6 ambient noise level and maximum allowable noise level, respectively. Identification of noise  
7 sensitive properties within 1-mile of the proposed site boundary is required; however, if facility  
8 noise impacts may extend beyond the 1-mile distance, those impacts must be assessed

9 **(y) Exhibit Y – Carbon Dioxide Emissions**

10 **Applicable Paragraphs:** Exhibit Y does not apply because the proposed facility is not a base load  
11 gas plant, a non-base load power plant, or a non-generating energy facility that emits carbon  
12 dioxide.

13 **(z) Exhibit Z – Cooling Tower Impacts**

14 **Applicable Paragraphs:** Exhibit Z does not apply because the proposed facility would not  
15 include an evaporative cooling tower.

16 **(aa) Exhibit AA – Electric and Magnetic Fields**

17 **Applicable Paragraphs:** All paragraphs apply to any transmission line, regardless of size, that is  
18 a related or supporting facility.

19 **Related Council and Other Standards:** General Standard of Review [OAR 345-022-0000]

20 **Discussion:** If the proposed facility would have a transmission line as a related and supporting  
21 facility, the provisions of Exhibit AA would apply.

22 **(bb) Exhibit BB – Other Information**

23 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

24 No additional information is required.

25 **(cc) Exhibit CC – Other Law**

26 **Related Council Standard:** General Standard of Review [OAR 345-022-0000]

27 All requirements apply.

28 **(dd) Exhibit DD – Specific Standards**

29 **Applicable Paragraphs:** Paragraph (C) applies.

30 **Related Council and Other Standards:** Specific Standards for Transmission Lines [OAR 345-024-  
31 0090]

32 **Discussion:** The Council applies specific standards for transmission lines under its jurisdiction in  
33 OAR 345-024-0090. The applicant should provide analysis regarding compliance with OAR 345-  
34 024-0090 in Exhibit DD.

1 **IV. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

2 The analysis areas are the areas that the applicant must study for potential impacts from the  
 3 construction and operation of the proposed facility. Some of the analysis areas described in this  
 4 Project Order do not limit the applicant’s responsibility to assess the potential impacts of the  
 5 facility. Rather, the analysis areas are the areas in which significant adverse impacts from the  
 6 proposed facility are more likely to occur and can vary by resource. If significant impacts  
 7 associated with the applicable Council standards could occur beyond the analysis areas  
 8 described here, then the applicant must assess those impacts in the application for a site  
 9 certificate and show how the facility would comply with the applicable standard with regard to  
 10 the larger area where impacts could occur.<sup>5</sup>

11 For all potential impacts, the analysis area includes all the area within the site boundary, as  
 12 defined in OAR 345-001-0010(55) as well as any additional distances beyond the site boundary  
 13 described in Table 2, *Analysis Areas* below. The application for site certificate must specifically  
 14 describe the site boundary and provide a map showing the proposed site boundary, including  
 15 all related and supporting facilities. The minimum required analysis areas are presented in  
 16 Table 2, *Analysis Areas*.

**Table 2: Analysis Areas**

Affected Standard or Resource	Exhibit	Analysis Area <sup>1</sup>
Structural Standard	Exh. H	The area within the site boundary, notwithstanding the distances related to an assessment of seismic hazards required by OAR 345-021-0010(1)(h).
Soil Protection	Exh. I	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary.
Land Use	Exh. K	The area within the site boundary and 0.5 miles from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 5 miles from the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within the site boundary and 0.5 miles from the site boundary.
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary.
Scenic Resources	Exh. R	The area within the site boundary and 5 miles from the site boundary.

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<sup>5</sup> OAR 345-022-0080 - Scenic Resources, OAR 345-022-0100 – Recreation, and OAR 345-022-0110 - Public Services directly reference the analysis area as described in the Project Order, and as such, the scope of assessment is limited to the analysis area.

**Table 2: Analysis Areas**

Affected Standard or Resource	Exhibit	Analysis Area <sup>1</sup>
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary (pedestrian archeological field survey and desktop review). The area within the site boundary and 1 mile of the site boundary (desktop review).
Recreation	Exh. T	The area within the site boundary and 5 miles from the site boundary.
Public Services	Exh. U	The area within the site boundary and 10 miles from the site boundary.
<p>Note:</p> <p>1. The applicant should note that analysis areas defined in this Project Order are to be used for the assessment of impacts to the associated resource. The applicant is not required to perform comprehensive field surveys of the entire analysis area if another method of impact assessment is suitable. However, the Department reserves the right to require field surveys if it is determined that a different method of analysis is insufficient to provide the level of information necessary to find the application complete. It is recommended that the Department be consulted if the applicant wishes to propose alternative methods of analysis than field surveys.</p>		

1

2 **V. COMMENTS ON THE NOTICE OF INTENT**

3 The Department received six reviewing agency comments on the NOI; no comments from  
 4 members of the public were received. Comments submitted are on-the record and were  
 5 required to be provided in written form, such as an email or letter. These comments have been  
 6 provided under separate cover to the applicant and are incorporated by reference in this order.  
 7 Within each applicable exhibit of the application, the applicant shall address those concerns  
 8 raised by reviewing agencies that are within the jurisdiction of the Council.

9 **VI. EXPIRATION DATE OF THE NOTICE OF INTENT**

10 In accordance with OAR 345-020-0060, the Madras Solar Energy Facility NOI will expire two  
 11 years after the date of submittal, on May 16, 2021, unless the applicant submits a petition to  
 12 Council to extend the expiration date. Such a petition must be submitted no less than 45 days  
 13 before the NOI expiration date. If the Council finds that the extension petition shows good  
 14 cause, it may extend the NOI expiration date by up to one year.

15 **VII. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

16 The Council or the Department may amend this Project Order at any time [OAR 345-015-  
 17 0160(3)]. Amendments may include changes to the analysis areas. To issue a site certificate, the  
 18 Council must determine that the proposed facility complies with Oregon statutes and  
 19 administrative rules identified in the Project Order, as amended, as applicable to the issuance  
 20 of a site certificate for the proposed facility (ORS 469.503(3)).

21 Under OAR 345-015-0190(5), when the Department determines the application for a site  
 22 certificate contains adequate information for the Council to make findings or impose conditions

1 on all applicable Council standards, the Department will find the application for a site certificate  
2 complete. The Department may find the application complete without requiring the applicant  
3 to submit all information described under OAR 345-021-0000 and 0010. In accordance with  
4 OAR 345-015-0190(9), after a determination that an application for a site certificate is  
5 complete, the Department may require additional information from the applicant if the  
6 Department identifies a need for that information during its review of the application for a site  
7 certificate.

8 **VIII. APPLICABILITY AND DUTY TO COMPLY**

9 Failure to include an applicable statute, rule, ordinance, permit or other requirement in this  
10 Project Order does not render that statute, rule, ordinance, permit or other requirement  
11 inapplicable, nor in any way relieves applicant from the duty to comply with the same.

12



1 **Project Order**

2 The Department issues this Project Order for the proposed Madras Solar Energy Facility on  
3 September 12, 2019.

4  
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6

7 **OREGON DEPARTMENT OF ENERGY**

8  
9



12 Sept 2019

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11 Todd R. Cornett, Assistant Director for Siting  
12 Energy Facility Siting Division  
13 Oregon Department of Energy

Date

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