

# PUBLIC NOTICE



## Wagon Trail Solar Project

### Proposed Order & Opportunity to Request a Contested Case

#### Summary:

Notice Date: July 30, 2024

Proposal: Up to 500 megawatt (MW) photovoltaic (PV) solar energy generation facility and related and supporting facilities that would permanently occupy 3,641 acres (5.69 square miles).

Proposed Facility Location: Morrow County, approximately 14 miles south of the City of Boardman.

#### Purpose of Notice:

- 1) To inform the public that the Proposed Order on the Application for Site Certificate has been issued **(described on Page 2 below)**; and
- 2) To notify individuals or organizations that commented on the record of the Draft Proposed Order of their right to request to participate in the Contested Case (described starting on Page 4 below).

Deadline to Request Party Status in a Contested Case Proceeding: August 30, 2024, at 5:00 p.m. Pacific Time (PT)

#### **Description of Proposed Facility:**

The Wagon Trail Solar Project (proposed facility), is proposed by Wheatridge East Wind, LLC (applicant), a wholly owned subsidiary of NextEra Energy Resources, LLC. While the proposed site boundary is 7,450 acres (11.64 sq miles), the facility would permanently occupy 3,641 acres (5.69 square miles).

#### Main Components:

- 965,007 solar panels
- 35,741 solar tracker systems – 16 feet tall
- 213,585 posts
- 17,879 combiner boxes
- 142 inverters
- 142 transformers
- 34.5 kV collector system with 68 miles of underground cables
- 6 - 8 foot tall perimeter fence

#### Related or Supporting Facilities:

- Battery energy storage system
  - Northern – 182 units on 10 acres
  - Southern – 422 units on 25 acres
- Collector Substations
  - Northern – 11.2 acres
  - Southern – 5 acres
- 230 kV Transmission line - 0.6 miles with towers up to 180 feet tall
- 6 to 9 thousand sq. ft. operation and maintenance building
- 47 miles of access roads

*More detailed information about the proposed energy facility and the related or supporting facilities is available in the Exhibit B of the Application for Site Certificate (ASC), and in the Project Description of the Proposed Order.*

#### **Location of Proposed Facility:**

The proposed facility would be located on privately owned land zoned for Exclusive Farm Use starting just south of the southeast corner of the Boardman Bombing Range.

Maps of the proposed facility and site boundary and proposed layout are included at the end of this notice. Specific locational maps can be found in ASC Exhibit C at: <https://www.oregon.gov/energy/facilities-safety/facilities/Pages/WTS.aspx> and on ODOE's online mapping tool at: [https://tools.oregonexplorer.info/OE\\_HtmlViewer/index.html?viewer=renewable&efsc=Wagon%20Trail%20Solar%20Project](https://tools.oregonexplorer.info/OE_HtmlViewer/index.html?viewer=renewable&efsc=Wagon%20Trail%20Solar%20Project)

#### **EFSC Review Process Overview:**

The site certificate review is a consolidated, comprehensive siting process. The applicant must demonstrate that the proposed facility meets EFSC standards established under Oregon Revised Statute (ORS) 469.501 and set forth in Oregon Administrative Rule (OAR) Chapters 345, Divisions 22 and 24, as well as all other applicable Oregon statutes, rules and standards. ODOE serves as staff to EFSC and conducts the application review process.

The proposed facility would have solar photovoltaic energy generation components located on more than 2,560 acres of land that is predominately cultivated, and therefore is an energy facility subject to EFSC jurisdiction under the definition in ORS 469.300(11)(a)(D). As such, the proposed facility must receive approval from EFSC for a site certificate prior to construction.

**Wagon Trail Solar Energy Facility Process Overview:**

Application for Site Certificate: The applicant filed a complete ASC on January 3, 2024. Under OAR 345-015-0190(5), an ASC is complete when the Department finds that an applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards. The Department held a virtual Public Informational Meeting on the proposed facility on January 17, 2024. The ASC and the Public Information Meeting presentation and recording are located on the project page as described in the Additional Information section below and are available for review.

Draft Proposed Order Issuance: On May 7, 2024, ODOE issued a DPO on the ASC. The DPO, ODOE's first evaluation of the proposed facility which includes findings of facts, conclusions of law and conditions, recommends EFSC approve the ASC and issue a site certificate. The DPO is not a Final Order.

Public Hearing: A public hearing on the DPO was held on May 30, 2024, and the record closed on June 7, 2024. The record was held open until June 11, 2024, for the applicant to respond to comments received during the public comment timeframe.

Council Review of the Draft Proposed Order: At its June 14 and July 19, 2024, meetings, EFSC reviewed the DPO and all submitted comments and provided their comments to the Department.

Proposed Order: The Proposed Order is the Department's second evaluation of the proposed facility and includes changes from the DPO made in response to comments raised on the record of the DPO and by EFSC. The Proposed Order recommends that the proposed facility/applicant have demonstrated compliance with all applicable standards and that EFSC approve the ASC and grant a site certificate, subject to recommended conditions.

All changes from the DPO are shown in the Proposed Order in underline/strikethrough format. Revisions to recommended site certificate conditions and findings of fact are summarized in Attachment 1 of this notice.

**Contested Case Proceeding: The next step in EFSC's review process is the Contested Case Proceeding. Please go to Page 3 for information on how to request to participate in the Contested Case.**

Final Order: Following the Contested Case Proceeding, EFSC will issue a Final Order either approving or rejecting the ASC. If approved, a Site Certificate will also be issued.

The Siting Division Public Guide contains additional information on the EFSC process. To view this information on the Department's website, please use the following link: <http://tinyurl.com/EFSCPublicGuide>

**Receipt of this Notice:** Please note that you may be receiving this notice for multiple reasons:

1. You commented in person or in writing on the record of the DPO public hearing conducted under [OAR 345-015-0220](#), discussed in this notice.
2. You own property within or adjacent to (within 500 feet) the property boundary on which the proposed facility would be located. You will automatically receive all future Council notices for this proposed facility.
3. You have requested to receive paper notices on the Wagon Trail Solar Project. If you wish to be removed from this mailing list, please contact Chase McVeigh-Walker.
4. You have previously signed up via GovDelivery/ClickDimensions to receive email notices related to the Wagon Trail Solar Project or all EFSC project-related notices. You will automatically receive all future email notices per your request, unless you unsubscribe via ClickDimensions or by contacting the Department.

**Additional Information:** Please contact Chase McVeigh-Walker, the Department representative, if you have questions or would like to schedule an appointment to review materials.

*(Contact information provided below/next page)*

Chase McVeigh-Walker, Senior Siting Analyst  
Oregon Department of Energy  
550 Capital Street NE  
Salem, OR 97301  
Phone: 971-600-5323  
Fax: 503-373-7806  
Email: Chase.MCVEIGH-WALKER@energy.oregon.gov

The public can also receive more information about the proposed facility and updates on the review process by using the following options:

**1) Oregon Department of Energy's webpage:**

More details on the proposed Wagon Trail Solar Project, including the ASC, DPO and the Proposed Order, are available online at:

<https://www.oregon.gov/energy/facilities-safety/facilities/Pages/WTS.aspx>

Additional resources to help you participate in the state siting process can be found at:

<http://www.oregon.gov/energy/facilities-safety/facilities/pages/default.aspx>

**2) Updates by email/mail:**

Subscribe to ClickDimensions, a self-managed, automated email system that sends notices and updates on the Wagon Trail Solar Project as well as any or all other energy facilities and events under EFSC jurisdiction. For more information, please visit: <https://tinyurl.com/ODOE-EFSC>.

To receive notices by U.S. Mail, please contact Chase McVeigh-Walker (See contact information provided above) and request to be added to the hardcopy notice list.

**3) In hardcopy:**

Hard copies of the ASC, DPO, and Proposed Order are available for public inspection at the following location at no cost.

Oregon Department of Energy  
550 Capitol Street NE  
Salem, OR 97301

Please contact Chase McVeigh-Walker to arrange viewing of hard copies of the ASC and DPO; hard copies will be provided at reasonable cost upon request to ODOE.

**Accessibility information:**

ODOE is committed to accommodating people with disabilities. For the review of the ASC or attendance at the information meeting, if you require any special physical or language accommodations, or need information in an alternate format, please contact Nancy Hatch at 503-428-7905, toll-free in Oregon at 800-221-8035, or email to [nancy.hatch@energy.oregon.gov](mailto:nancy.hatch@energy.oregon.gov). For any other accommodation needed to attend the public hearing, please contact ODOE as soon as possible so we may provide the accommodation.

**Contested Case Details:**

**Overview:** Following issuance of the Proposed Order, EFSC must conduct a contested case proceeding on the ASC in accordance with the applicable provisions of ORS chapter 183, the Attorney General's Model Rules of Procedure for Contested Cases in OAR chapter 137, division 003, and the Council's rules in OAR chapter 345, division 015. The Council appoints a Hearing Officer to conduct the Contested Case proceeding. The Hearing Officer for this proceeding is Administrative Law Judge Joe Allen from the Oregon Office of Administrative Hearings.

The applicant is a party to the contested case, and the Department must participate in the contested case with the same rights as a party. Only individuals or organizations that commented on the record of the DPO public hearing, either in person at the May 30, 2024 public hearing, or in writing between May 7, 2024 and June 7, 2024, are eligible to request to participate in the contested case hearing as a party or limited party under [OAR 345-015-0016](#).

To raise an issue in a contested case proceeding, the issue must be within the jurisdiction of the Council, and the person must have raised the issue in person or in writing on the record of the public hearings on the DPO with sufficient specificity to afford the council, the Department and the applicant an adequate opportunity to respond. To have raised an issue with sufficient specificity, the person must have presented facts verbally or in writing prior to the close of the record of the public hearing that support the person's position on the issue.

Issues not raised on the record of the public hearing on the DPO may not be considered in the contested case proceeding unless the Department did not follow

the noticing requirements of ORS 469.310(2) or (3), or unless the action recommended in the Proposed Order, including any recommended conditions of approval, differs materially from the action recommended in the DPO, in which case the person may raise only new issues within the jurisdiction of the Council that are related to such differences

Deadline for Requests to Participate as a Party or Limited Party: Persons eligible to request party or limited party status in the contested case proceeding must submit a written petition to the Hearing Officer. All petitions must be received no later than **August 30, 2024 at 5:00 p.m. PT** to be considered. Petitions may be submitted via U.S. mail, email or fax to the following address:

Joe Allen, Administrative Law Judge  
Oregon Office of Administrative Hearings  
PO Box 14020  
Salem, OR 97309-4020  
Phone: 503-612-4300  
Fax: 503-947-1531  
Email: [OED\\_OAH\\_Referral@oregon.gov](mailto:OED_OAH_Referral@oregon.gov) (\*Please note two underscores (“\_”) in email address)

Additionally, please submit an electronic copy of the petition to the Department’s Siting Analyst at: [Chase.McVeigh-Walker@energy.oregon.gov](mailto:Chase.McVeigh-Walker@energy.oregon.gov)

If the Hearing Officer does not receive the petition by **August 30, 2024 at 5:00 p.m. PT** the requesting person(s) will have waived any right to participate in the contested case.

Contents of a Petition for Party or Limited Party Status: A petition for party or limited party status must comply with [OAR 345-015-0016](#), and must include:

1. The name and addresses of the petitioner and of any organization the petitioner represents;
2. The name and address of the petitioner's attorney, if any;
3. A statement of whether the request is for participation as a party or a limited party, and, if as a limited party, the precise area or areas in which participation is sought;
4. If the petitioner seeks to protect a personal interest in the outcome of the agency's

proceeding, a detailed statement of the petitioner's interest, economic or otherwise, and how such interest may be affected by the results of the proceeding;

5. If the petitioner seeks to represent a public interest in the results of the proceeding, a detailed statement of such public interest, the manner in which such public interest will be affected by the results of the proceeding, and the petitioner's qualifications to represent such public interest;
6. A statement of the reasons why existing parties to the proceeding cannot adequately represent the interest identified above;
7. A short and plain statement of the issue or issues that the person desires to raise in the contested case proceeding; and,
8. A reference to the person’s comments at the public hearing showing that the person raised the issue or issues at the public hearing.

A template petition is provided as an attachment to this notice, which can be used for submission of a petition in accordance with the submittal requirements outlined in this notice.

Date of Prehearing Conference: Following the deadline for petitions for party or limited party status, the Hearing Officer will conduct a prehearing conference to facilitate the conduct and resolution of the contested case. The prehearing conference will be conducted by telephone at 10:00 a.m. PT on **September 20, 2024**, unless rescheduled by the Hearing Officer.

Persons requesting party or limited party status must:

- Appear at the prehearing conference either as an individual or through legal counsel or an authorized representative;
- Confirm the issues they would like to address in the contested case; and,
- Raise any issues regarding the contested case process, or such issues will be waived as provided in OAR 345-015-0083.

Following the prehearing conference, the Hearing Officer will issue a Contested Case Notice as required by OAR 345-015-0014, including information described in ORS 183.413 and 183.415 to all those granted party status. The Hearing Officer’s Order on Party or Limited Status and Issues is final unless the

requestor submits an appeal to the Council within seven days after the date of service.

Contested Case Proceeding: Unless rescheduled by the Hearing Officer, the contested case proceeding will begin on September 20, 2024. The Case Management Order will establish the schedule for the contested case hearing which will likely include all or some of the following steps:

- Informal Discovery
- Motions for Discovery Orders
- Motions for Summary Determination (potentially)
- Written Direct Testimony
- Written Rebuttal Testimony
- Requests for Cross-Examination
- Oral Cross-Examination Hearing
- Written Closing Argument
- Written Response Briefs
- Hearing Officer Proposed Contested Case Order
- Written Exceptions
- Written Responses to Exceptions
- Council Hearing on Proposed Contested Case Order and Exceptions

**Default:** In accordance with ORS 469.370(6), if no one requests party status, the Proposed Order shall be forwarded to the Council and the contested case hearing shall be concluded. If a person submits a request for party status and fails to appear at the prehearing conference, the Council may issue a final order adverse to that person upon making the determinations required by ORS 469.503.

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## Summary of Material Changes in Proposed Order to Recommended Site Certificate Conditions

In response to issues raised with sufficient specificity on the record of the DPO public hearing, within Council jurisdiction, the following recommended site certificate conditions were materially revised in the Proposed Order:

- **Section IV.D Soil Protection, Section IV.E. Land Use (Section 6.025):** Several new and revised requirements incorporated into the Draft Reclamation and Revegetation Plan and Draft Noxious Weed Control Plan included as Attachment P-4 and Attachment P-5 of the Proposed Order (pg. 48-49.)
- **Section IV.E. Land Use:** reversal of previous recommendation that Council find that the applicant’s proposed reason, “Minimal Impacts to Agriculture” is justified to support granted in exception to Goal 3 (pg. 104-109)
- **Section IV.E. Land Use, Land Use Condition 14 and 15:** Updates to condition language to specify the allocation of the mitigation funding; updates to the amounts of mitigation required to demonstrate local economic benefit as a reason justifying a goal exception; incorporation of a requirement to adjust the mitigation funding from 2023 dollars to present value at the time of preconstruction compliance (pg. 109-111)
- **Section IV.E. Land Use:** Revised findings related to the Goal 3 exception evaluation for the applicant’s proposed reason, “Minimal Other Environmental Impacts.” Revisions changed the analysis to include only resources for which facility construction and operation will not impact rather than to also include resources that would be impacted but include conditions for mitigation (pg. 112-113)
- **Section IV.Q.1. Noise Control Regulations:** Revised Noise Control Condition 1 to remove an erroneous reference to subparts of the rule applicable to a wind energy facility (pg. 252)

### Petition for Party Status in the Contested Case (Template)

Notes:

1. This template was developed by the Oregon Department of Energy (Department) and is provided as a courtesy for persons seeking to participate in the contested case proceeding. Petitioners are not required to use the template, but use is recommended to ensure petitions contain required petition information and can be efficiently reviewed by Department staff and Hearing Officer.
2. Please contact the Department representative, Chase McVeigh-Walker, to request a Word version of the template.

Description	Explanation of Information	Petitioner Information
<b>Petitioner Name:</b>	Provide petitioner first and last name.	
<b>Petitioner Address:</b>	Provide physical mailing address and e-mail address, if available.	
<b>Petitioner Attorney:</b>	Provide name and address of attorney, if any.	
<b>Authorized Representative:</b>	Provide name of any person(s) authorized by you to represent your issue(s) or confirm your intent to act as an authorized representative for the organization you intend to represent.	
<b>Name of Any Organization Petitioner Represents:</b>	Confirm and provide the name of any organization(s) you represent in this proceeding, in addition to yourself.	
<b>Party Status Requested (Limited or Full):</b>	Confirm whether you are seeking to participate as a party or limited party and if as a limited party the precise area or areas in which you seek to participate.	
<b>If seeking to represent a personal interest:</b>	Provide a detailed statement of your personal interest (economic or otherwise).	

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Description	Explanation of Information	Petitioner Information
	Explain how your personal interest may be affected by the results of the proceeding.	
	Provide reasons why existing parties to the proceeding cannot adequately represent the personal interest you have identified.	
<b>If seeking to represent a public interest:</b>	Provide a detailed statement of the public interest you intend to represent.	
	Explain how such public interest would be impacted by the outcome of the proceeding.	
	Provide a reference to your qualifications to represent such public interest(s).	
	Provide reasons why existing parties to the proceeding cannot adequately represent the public interest(s) you have identified.	
<b>Issue Information</b> <b>Instructions: Provide information for Items (1) – (2) below for each issue requested for review in the proceeding.</b>		



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Description	Explanation of Information	Petitioner Information
<b>Issue 1</b>		
<b>Issue Statement:</b>	<p>Provide short and plain statement of each issue you wish to raise in the contested case, including facts or legal analysis presented in the Proposed Order or ASC believed to be at issue and provide a reference to applicable rules or statutes believed applicable to the issue.</p> <p><u>Examples:</u>            Issue #1. The evaluation of XX does not comply with XX because (identify and provide explanation of facts or legal analysis believed to be at issue); OR            Issue #1. I contend the applicant does not meet [cite specific Council standard or applicable law] because [provide brief explanation of why you believe applicant does not meet the cited standard or law]).</p>	
<b>Provide date of DPO comments where issue was previously cited:</b>	For each issue identified in your Issue Statement(s), provide date and manner (verbal or written) in which you raised the issue(s) on the record of the Draft Proposed Order.	
<b>Issue 2</b>		
<b>Instructions: If more than 1 issue, continue to provide responses to (1) and (2) for each additional issue requested for review in the proceeding.</b>		

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