

# State Energy Facility Siting

House Energy & Environment Committee

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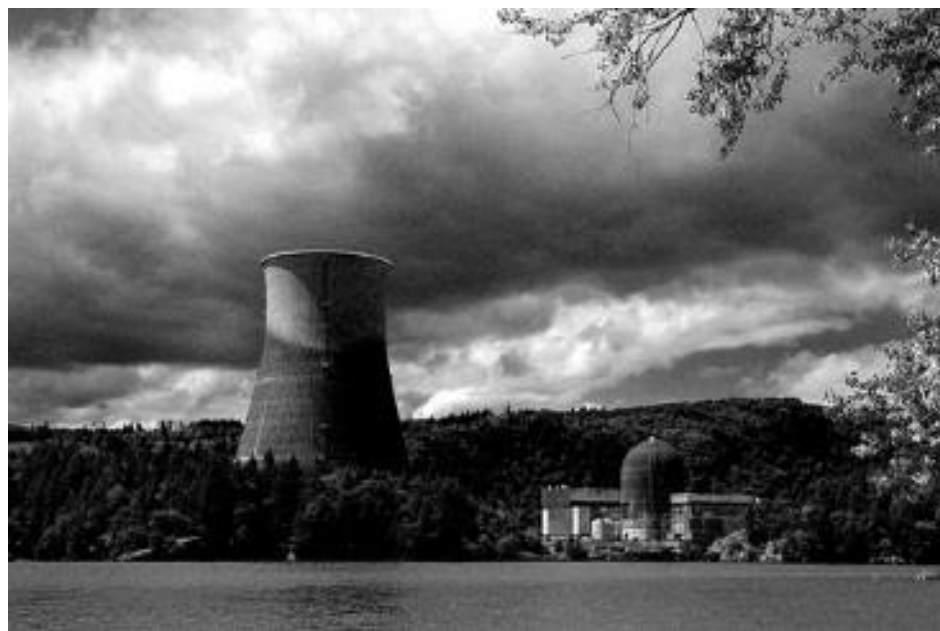
# ORS 469.310 (Policy)

*The purpose of the regulation of energy facilities  
is to establish*

“A comprehensive system for the siting,  
monitoring and regulating of the location,  
construction and operation of all energy  
facilities in this state”

# Origins

- 1971
  - Creation of Nuclear and Thermal Energy Council
  - 1st Site Certificate Issued Trojan Nuclear Power Plant
- 1975
  - Replaced by Energy Facility Siting Council
  - Creation of Department of Energy



# State Energy Siting Basics

- Energy Facility Siting Council (EFSC)
- Oregon Department of Energy (ODOE) Staff
- Consolidated Review Process
- Standards Based Process
- Site Certificate
- Application Fees



# Jurisdiction



- State - ORS 469.300(11) “Energy Facility” definition – creates state threshold
- Local: facilities smaller than state “Energy Facility” definition
- Federal: Federal Energy Regulatory Commission (FERC)

# Energy Facilities

## ORS 469.300(11)

- Wind
- Thermal (Gas)
- Transmission
- Surface Facility related to Underground Natural Gas Storage Facilities
- Solar
- Geothermal
- Pipelines
- Synthetic Fuel Plant
- Plant that converts biomass into a fuel source
- Nuclear Installations
- Storage Facility for Liquid Natural Gas
- Uranium Mill or Mill Tailings Disposal Facility
- **Not Hydroelectric**

# Reviewing Agencies

- Includes state agencies, local governments, tribal governments, federal agencies and others affected by the proposal
- Receive information at least **5 times** throughout the application process
- Request identification of issues, concerns, standards, permits, conditions, and verification of compliance
- Cost recovery for reviewing agencies





# Public Stakeholders



- Receive information at least **4 times** during the application process
- Efforts to enhance public participation and increase transparency



# EFSC Review Standards

- EFSC Standards, State Law and Local Ordinances other than Local Land Use Regulations
- Local Land Use Regulations – local land use and development ordinances and comp plan provisions required by statewide land use goals
  - Path A - Local government review
  - Path B - EFSC review

# EFSC Process



- Applicant submits a **Notice of Intent (NOI)**
- ODOE issues a **Project Order**
- Applicant submits an **Application (pASC)**
- ODOE deems the application complete
- ODOE issues a **Draft Proposed Order (DPO)**
- **DPO Hearing**
- ODOE issues a **Proposed Order (PO)**
- **Contested Case**
- EFSC issues a **Final Order/Site Certificate**

# Notice Of Intent (NOI)

- The NOI is:
  - applicant's conceptual plan
- The NOI is not:
  - a detailed application
  - a complete or final plan
- Notice to public and comment period (#1)



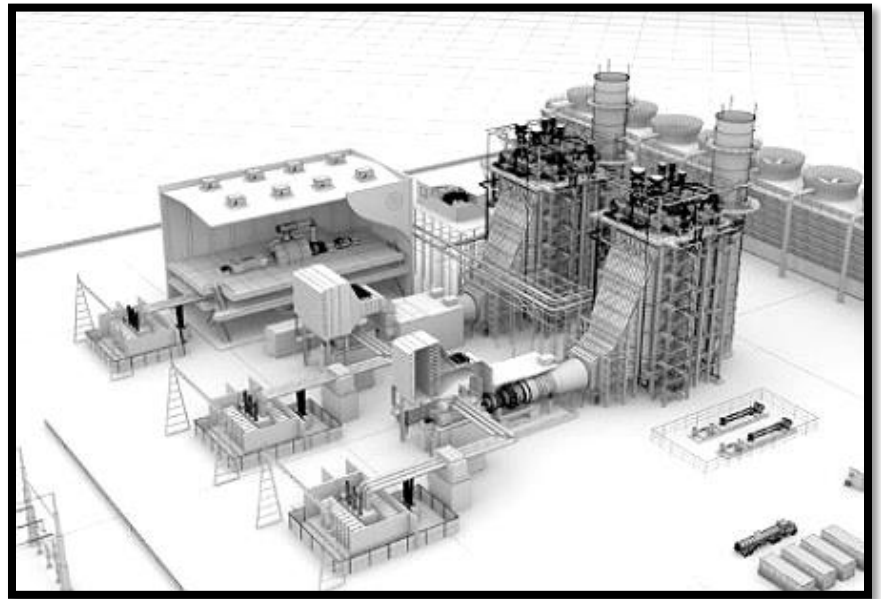
# NOI Cont'd



- Memo to reviewing agencies and comment period (#1)
- Reviewing agency responses about what is needed in application
- Optional interdisciplinary team meeting

# Project Order

- “Blueprint” for application
  - all Reviewing Agency requirements
  - Council’s application requirements and standards
- Basis for EFSC evaluation and decision
  - Final Order & Site Certificate based on requirements/standards identified in Project Order



# Preliminary Application for Site Certificate (pASC)

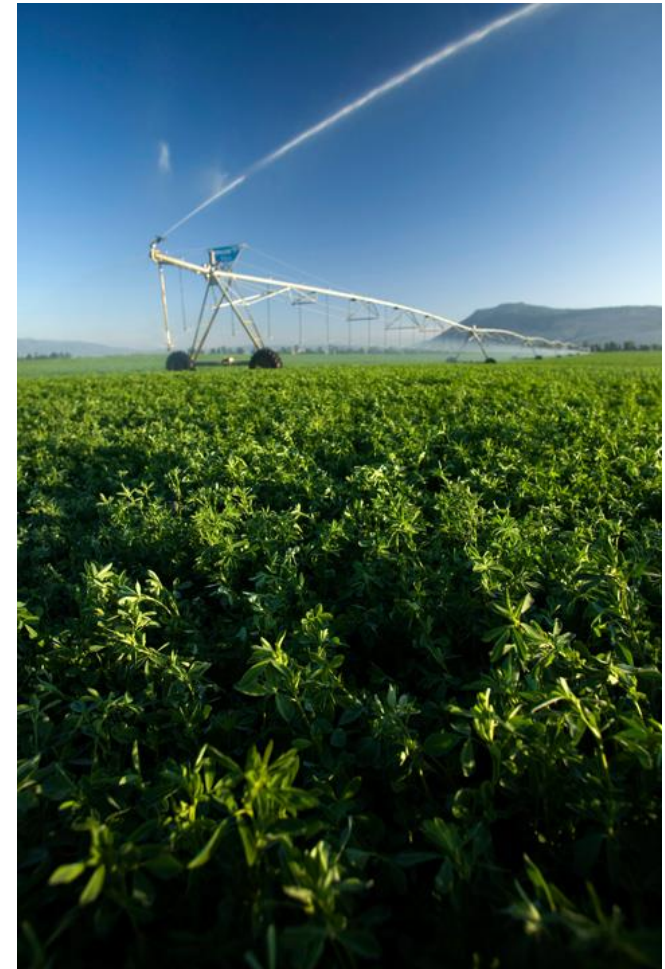


- pASC reviewed for “Completeness”
- Memo to Reviewing Agencies (#2)
- Request for Additional Information (RAI)



# Complete Application (ASC)

- Application ‘Complete’ when
  - “applicant has submitted information adequate for the Council to make findings or impose conditions on all applicable Council standards.”
- Notice of Complete Application
  - Reviewing Agencies (#3)
  - Public (#2) – information meeting





# Draft Proposed Order (DPO)



- ODOE recommended findings of fact, conclusions of law and conditions to EFSC on each Council standard
- Incorporates/evaluates all agency comments, recommendations, and conditions
- Notice of issuance of DPO
  - Reviewing Agencies (#4)
  - Public (#3)

# Draft Proposed Order Cont'd

- Hearing
  - before Hearing Officer, EFSC or both
  - raise it or waive it
- Council review of DPO
  - staff present DPO and comments received at DPO hearing
  - Council provides comments to department



# Proposed Order



- Department converts the DPO into the Proposed Order based on comments
- Issuance of Proposed Order
  - notice to Reviewing Agencies that commented (#5)
  - notice to Public (#4)
- Notice of Contested Case
  - Limited to those who provided comment during the DPO hearing

# Contested Case

- Administrative law proceeding run by independent hearing officer
- Contested case concludes quickly if no requests for party status
- Full contested case if there are requests for party status based on issues raised at DPO Hearing, or if the applicant identifies an issue



# Final Order and Site Certificate



- At the conclusion of the Contested Case, Council shall either approve or reject the application
- The Council can either adopt, modify or reject the Proposed Order in its Final Order
- If the Council approves the application, it must issue a Site Certificate along with the Final Order
- Appealable directly to Oregon Supreme Court – 6 Months



# Reviewing Agency Action on Site Certificate

- Agencies must issue any required permits, without additional process/requirements
- Site Certificate conditions binding on agencies



# Process Improvement



- HB 2105 – 2013 Session
- Annual Work Plan
- Process Improvement