



STATE OF WASHINGTON
DEPARTMENT OF ECOLOGY

Central Region Office

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June 27, 2022

Amí Hafkemeyer
Energy Facility Site Evaluation Council
PO Box 47250
Olympia, WA 98504

SENT VIA ELECTRONIC MAIL

RE: High Top and Ostrea Projects Shorelands, Wetland and Waters of the State Review

Dear Amí Hafkemeyer:

The Department of Ecology's (Ecology) Shoreline and Environmental Assistance (SEA) Program has reviewed the application materials for the proposed solar and battery storage project located east southeast of Yakima, Washington. Specifically, Ecology staff reviewed the following materials: application form, High Top Wetland Delineation Report, High Top Zoning Site Plan, High Top Vegetation Management Plan, High Top Hydrology and Hydraulics, High Top Rare Plant Report, Ostrea Top Wetland Delineation Report, Ostrea Zoning Site Plan, Ostrea Vegetation Management Plan, Ostrea Hydrology and Hydraulics, Ostrea Rare Plant Report, and Attachment O - Mitigation Measure Summary. Comments are provided below and separated into three main sections for your convenience.

Shorelands

Per Revised Code of Washington (RCW) 90.58, WAC 173-26 & 27, local governments having shorelines of the State located within their boundaries are required to adopt and implement a shoreline master program. Washington Administrative Codes 173-18 thru 173-22 define State Shoreline definitions and requirements.

The project site is not located within the regulatory jurisdiction of any Yakima County or State Shorelines. Therefore, the above-mentioned codes and regulations do not apply.

Wetlands and Waters of the State

Wetlands

Ecology staff reviewed Attachments D- "Wetland and Waterbody Delineation Report" for High Top Solar, LLC and "Wetland and Waterbody Delineation Report" for Ostrea Solar, LLC, prepared by TRC Environmental Corporation in October 2021 and April 2022, respectively. The provided wetland reports did not identify any wetlands located within the project limits;

however, each project site (High Top and Ostrea) had a wetland located within the project boundary but outside the project limits.

Several areas of interest were identified on aerial imagery that Ecology would like the opportunity to field verify via a site visit in late April or early May (Image 1 and 2). The wetland investigations were conducted in months outside the growing season and during drier times of the year (December and July for High Top; and July and May for Ostrea, respectively). It is not uncommon for ephemeral streams to have riverine wetlands associated with them. These wetlands are typically only observable during the wettest part of the growing season when the streams are flowing. The timing of the investigation could make the determination of seasonal, riverine wetlands difficult. For example, the datasheet for sampling point 01, mentions bedrock was located within 3 inches of the soil surface which meets Hydrologic indicator, D3, Shallow aquitard. The selection of two secondary indicators of hydrology, suggests wetland hydrology is present. Also, the time of the year could impact the occurrence of hydrophytic vegetation. The restricted soil profile and potential ponding could result in a lack of hydric soil characteristics. Ecology recommends that EFSEC request an additional site visit to verify the lack of seasonal wetlands throughout the project site. The use of Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0), Chapter 5, Difficult Wetland Situations in the Arid West, may be required.

Review of Wetland Datasheets

The submitted wetland delineation datasheets for each project site had a variety of incorrect data (including the wrong Land Resource Region, LRR). Both project sites have an incorrect hydric soil indicator marked.

The datasheet for High Top indicated the soils met hydric soil indicator F6, Redox Dark Surface. The soil matrix and soil redoximorphic features are listed as having the same color and did not provide a percentage of redox features, thus the soil profile reads 100% of the matrix has a color of 5Y 3/1, with no redox features. To meet the hydric soil indicator F6, Redox Dark Surface, the soil must have a matrix color of 3 or less and a value of 2 or less **and** 5% redox features (or matrix color of 3 or less **and** a value of 1 or less with 2% redox features). This does not necessarily mean the soil is not hydric, just that it does not meet the F6 indicator. This is a location that would require the use of Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Arid West Region (Version 2.0), Chapter 5, Difficult Wetland Situations in the Arid West, to determine if hydrology is present for a minimum of 14 consecutive days (seasonally ponded). An early spring site visit (late March-early May) would be required to monitor the duration of hydrology. The same datasheet indicates hydrology is not present. I disagree. Dominant plants located at the sample site met the FAC neutral test, a secondary hydrology indicator. Secondary hydrology indicators require a minimum of two indicators to be present for the hydrology requirement to be met. I believe the secondary indicator, D3, shallow aquitard, should also be selected. Shovel refusal occurred at a maximum depth of 3 inches from the soil surface due to bedrock. A shallow aquitard is a confining layer that restricts water movement within the upper 12 inches of the soil profile.



The wetland sample datasheet for Ostrea indicates soils that met the hydric soil indicator F3, Depleted Matrix, and A4, Hydrogen Sulfide. The provided soil matrix color, 5Y 3/1, does not meet the required colors of a depleted matrix. Soils meeting the depleted matrix indicator must have a matrix color value of 4 or higher and a chroma of 2 or lower. However the hydric soil indicator A4, Hydrogen Sulfide is present therefore another indicator is not necessary.

Ecology staff were unable to review the wetland ratings for each of the project sites. The respective wetland reports did not include the rating datasheets and maps. All datasheets and accompanying maps should be included within a wetland report for review and verification. Per Yakima County Code 16C.06.16 Vegetative Buffers, Table 6-2, the County does require a 50-foot wide upland buffer surrounding category IV wetlands.

Waters of the State

Nine ephemeral streams were discovered within the High Top project site and 18 within the Ostrea project site. Impacts are anticipated to occur to 9 ephemeral channels within the Ostrea project site. Permanent impacts are proposed within 5 of the 9 ephemeral channels. The remaining 4 ephemeral channels will be temporarily impacted and restored to grade.

A preliminary stream crossing and dewatering plan were attached to the end of the Ostrea wetland report. The plan proposes to disturb 60 linear feet of a stream to install a 48" diameter HDPE culvert to span respective streams. Work is to take place in the dry by using a polyethylene sheet and sandbag cofferdams. Water will be diverted around the cofferdams with a diversion pipe and released within a containment device located in an upland area.

The applicant intends to apply for a Clean Water Act Section 404 Nationwide Permit (NWP) 14, Linear Transportation Projects from the U.S. Army Corps of Engineers (Corps). Additional review by Ecology would be required if temporary fills are to remain in place for 6 months or longer. A Section 401 Water Quality Certification would be required for projects issued under the Corps' NWP 14 if the project either occurs in a known contaminated or cleanup site; impacts to more than 1/3 acre of waters; or if the NWP is authorized in conjunction with any other NWP.

In the event, the Corps determines the ephemeral streams are non-federally regulated waters, authorization for the proposed impacts may be required by Ecology through the issuance of an Administrative Order under RCW 90.48, the Water Pollution Control Act.

Ecology typically requires a jurisdictional determination (JD) from the U.S. Army Corps of Engineers (Corps) verifying the waters are non-federally jurisdictional before beginning our Administrative Order permitting process.

Conclusion

Additional information is needed to properly assess potential impacts to waters of the State. Ecology staff would like to conduct a site visit to verify the presence or absence of wetlands within the project area and gather more information regarding the work to be done in the



stream features. Additional work and review of subsequent materials may be needed after the site visit.

A discharge into one of the 9 stream features, identified as ephemeral could be regulated through the Department of Ecology. If the Corps determines the ephemeral streams are non-federally regulated waters, an Administrative Order could be needed if details show the project will not meet the State's water quality standards and if mitigation is needed to replace any of the features functions and values.

If project plans change, details should be provided for review to determine if the State's water quality standards will be met.

Ecology looks forward to providing the Energy Facility Site Evaluation Council with technical assistance and expertise in the future. If you have any questions or would like to discuss these comments, please call me at (509) 379-1917.

Sincerely,



Lori White

Wetland/Shoreline/Federal Permit Specialist

cc: Loree' Randall, Department of Ecology
Gary Graff, Department of Ecology





Image 1. High Top areas of interest





Image 2. Ostrea areas of interest

