

BEFORE THE ENERGY FACILITY SITING COUNCIL

In the Matter of a Request for )  
Exemption from Energy Facility Site )  
Certificate requirements for the Altra )  
Biodiesel Facility )  
)

ORDER GRANTING EXEMPTION

On November 13, 2006, Altra Biodiesel, LLC (Altra) submitted an application for exemption from requirements to obtain an Energy Facility Site Certificate for a proposed ethanol production facility located at the Port of Morrow in Boardman, Oregon.

The facility is proposed by Altra Biodiesel of Oregon LLC, Inc. The proposed site is 9.3 acres on land owned by the Port of Morrow in Boardman, OR in the Port Industrial zone. It is separate from the Altra Ethanol project, which received an exemption from the Council on December 15, 2006. Both are biofuels projects located at the Port of Morrow, but are separate projects.

Applicable Regulations

Oregon statute exempts certain fuel producing energy facilities from EFSC jurisdiction. Altra requests an exemption under ORS 469.320(2)(f), which states that no site certificate shall be required for:

- “(f) An energy facility as defined in ORS 469.300(11)(a)(G), if the facility
  - (A) Exclusively uses grain, whey, potatoes, oil seeds, waste vegetable oil or cellulosic biomass as the source of material for conversion to a liquid fuel
  - (B) Has received local land use approval under the applicable acknowledged comprehensive plant and land use regulations of the affected local government and the facility complies with any statewide planning goal or rules of the Land Conservation and Development Commission that are directly applicable to the facility
  - (C) Requires no new electric transmission lines or gas or petroleum product pipelines that would require a site certificate under subsection (1) of this section, and
  - (D) Produces a synthetic fuel, at least 90 percent of which is used in an industrial or refueling facility located within one mile of the facility or is transported from the facility by rail or barge.”

Review of Exemption Request

The Council reviewed Altra’s request under its rules at OAR 345-015-0370.

On January 2, 2007, the Oregon Department of Energy (ODOE) determined that the exemption request met the content and format described at OAR 345-015-0370(7). ODOE deemed the exemption request complete, and issued notice of filing to Altra and to the Council’s general mailing list.

The Council considered staff's recommended findings regarding this exemption request at a meeting in Portland, Oregon on February 2, 2007.

Based on the information in the request for exemption and on staff recommendations in ODOE's notice of filing, the Council makes the following findings regarding compliance with the exemption criteria of ORS 469.320(2)(f).

#### Compliance with Exemption Criteria

To grant the exemption, the Council must find that the facility:

(A) Uses grain, whey, potatoes, oil seeds, waste vegetable oil or cellulosic biomass as the source of material for conversion to a liquid fuel;

The planned facility will convert domestically produced soy or canola oil, imported palm oil or other seed oil to produce biodiesel fuel. The facility will be capable of producing up to 40 million gallons per year of biodiesel. The Council finds that criterion (A) is met.

(B) Has received local land use approval under the applicable acknowledged comprehensive plant and land use regulations of the affected local government and the facility complies with any statewide planning goal or rules of the Land Conservation and Development Commission that are directly applicable to the facility

The exemption request includes a letter from Carla McLane, Morrow County Planning Director. The letter states that the ethanol facility is an outright permitted use in the Port Industrial Zone, where the facility is proposed.

The Council has previously found that a certification by the county planning director that the facility is an outright permitted use is acceptable and sufficient to demonstrate compliance with the statewide planning goals and rules of the Land Conservation and Development Commission. (*see* Final Order In the Matter of a Request for Exemption from Energy Facility Site Certificate requirements for the Oregon Ethanol LLC Facility proposed by Greenstock Resources, Inc.)

The letter from Carla McLane points out that Altra must still obtain the required zoning permit and applicable building permits, and that section 4.165 "Site Plan Review" of the Morrow County Zoning Ordinance will be applicable. However, the Council found in the Greenstock order that the zoning permit, building permits and site plan review are not land use approvals required in criterion (B) of ORS 469.320(2)(f). The county planning director's determination that the facility is an outright permitted use is sufficient to meet the exemption criterion. The Council therefore finds that criterion (B) is met.

(C) Requires no new electric transmission lines or gas or petroleum product pipelines that would require a site certificate under subsection (1) of this section.

The exemption request includes a letter from Umatilla Electric Coop, noting that the facility's expected load is approximately 1.5 MW. Umatilla Electric Coop states that it can meet the load

using from its nearby substation. UEC has stated that it plans to add a new substation and 115 kV line to serve industrial loads at the Port of Morrow, but these facilities would not require a site certificate.

Natural gas will be provided by Cascade Natural Gas via an existing 8 inch line approximately 1000 feet from the site. The facility does not require a gas pipeline that requires a site certificate.

Therefore the Council finds that criterion (C) is met.

(D) Produces a synthetic fuel, at least 90 percent of which is used in an industrial or refueling facility located within one mile of the facility or is transported from the facility by rail or barge.”

Altra certifies that it will ship at least 90% of its diesel output by rail or barge. The exemption request includes a letter from the Port of Morrow, confirming that adequate rail and barge capacity is available. The Port notes that a Union Pacific mail line serves the Port property and a recently constructed rail loop is located immediately adjacent to the parcel where Altra plans to construct its facility. Tidewater, Inc. will provide barge service using existing docking facilities so that no in water construction is necessary. The Council finds that criterion (D) is met.

#### Conclusion

Although not required for the exemption, Morrow County’s requirements for zoning permits, building permits and site plan review still apply and must be met prior to construction.

The Council determines that the proposed Altra Biodiesel of Oregon LLC facility, as described in the exemption request submitted by Altra on November 13, 2006, is exempt from its jurisdiction pursuant to ORS 469.320(2)(f).

\_\_\_\_\_  
David Ripma, Chair  
Energy Facility Siting Council

\_\_\_\_\_  
date

#### Notice of Right to Appeal

Pursuant to ORS 469.320(4), you have the right to appeal this Order to the Oregon Supreme Court as provided under ORS 469.403, except that the scope of review by the Supreme Court shall be the same as a review by a circuit court under ORS 183.484. To appeal you must file a petition for judicial review with the Supreme Court within 60 days from the day this order was served on you. If this order was personally delivered to you, the date of service is the date you received this order. If this order was mailed to you, the date of service is the date it was mailed, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you lose your right to appeal. The record on review by the Supreme Court will be the record established in the council proceeding on this exemption.