

OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules
and Other Requirements Applicable to the)
Proposed **CASCADE CROSSING**)
TRANSMISSION LINE)

PROJECT ORDER

3 **BACKGROUND AND PROCEDURAL HISTORY**

4 On May 17, 2010, the Oregon Department of Energy (ODOE or the “Department”)
5 received a Notice of Intent (NOI) from Portland General Electric (PGE or the “applicant”) to file
6 an application for a site certificate for a new 500-kilovolt (kV) transmission line project in
7 Oregon. As described in the NOI, the proposed Cascade Crossing Transmission Line (Cascade
8 Crossing) would extend approximately 210 miles from an existing PGE energy generating plant
9 (Coyote Springs) in Boardman to an existing substation outside of Salem. The proposed project
10 would also involve building three new substations along the transmission route to allow
11 interconnection with wind energy projects. Although the NOI indicated that the project would
12 also include upgrades to PGE’s existing 115-kV and 230-kV transmission infrastructure in the
13 Willamette Valley, information received from the applicant subsequent to the submittal of the
14 NOI indicated that the Willamette Valley upgrades were no longer being considered.

15 As described in the NOI, the 500-kV line would cross land in up to six Oregon counties,
16 of which 64 percent is privately-owned, 20 percent is managed by federal agencies, 14 percent is
17 on the Warm Springs Reservation of Oregon, and 2 percent is owned by state or municipal
18 governments. The proposed facility will require a site certificate from the Oregon Energy
19 Facility Siting Council (EFSC or the “Council”), as well as approval under the National
20 Environmental Policy Act (NEPA) process.

21 On May 26, 2010, the Department issued a public notice of the NOI to the EFSC mailing
22 list and to adjacent property owners as defined at OAR 345-020-0011(1)(f). This public notice
23 was distributed jointly with the US Forest Service (USFS), the lead agency overseeing the NEPA
24 process, to satisfy both EFSC and NEPA requirements. A public notice was also published in
25 the following newspapers:

- 26 • *North Morrow Times* (June 4, 2010)
- 27 • *The Oregonian* (June 14, 2010)
- 28 • *Molalla Pioneer, Salem Statesman Journal, and The Dalles Chronicle* (June 15, 2010)
- 29 • *Canby Herald, Clackamas Review, Madras Pioneer, and Oregon City News* (June 16,
30 2010)
- 31 • *Hermiston Herald and Mill City Independent Press* (June 23, 2010)
- 32 • *East Oregonian* (June 24, 2010)

33 The notices announced a series of joint state/federal public scoping meetings to be held in
34 several cities along the proposed transmission line route, and requested public comments on the
35 NOI by July 27, 2010. The close of the scoping period was subsequently extended to August 2,
36 2010, and both the state and federal agencies have continued accept comments since then.

1 The public scoping meetings took place in the following Oregon cities:

- 2 • Maupin (June 21, 2010)
- 3 • Oregon City (June 23, 2010)
- 4 • Salem (June 24, 2010)
- 5 • Mill City (June 29, 2010)
- 6 • Boardman (July 1, 2010)

7 In preparation for review of the project, on March 12, 2010 the Council appointed Golder
8 Associates as its Reviewing Contractor for the Cascade Crossing project. On June 11, 2010 the
9 Council appointed the governing boards of Morrow, Gilliam, Sherman, Wasco, Clackamas, and
10 Marion counties as Special Advisory Groups for the project.¹ On June 4, 2010, PGE distributed
11 the NOI to the Special Advisory Groups and other reviewing agencies identified by the
12 Department. In accordance with OAR 345-020-0040, the NOI was sent with a memorandum
13 from the Department requesting comments from reviewing agencies on or before July 12, 2010.
14 The following reviewing agencies submitted comments to the Department (see Section VII for
15 discussion of reviewing agency comments):

- 16 • City of Salem
- 17 • Gilliam, Marion, Morrow, and Sherman Counties
- 18 • Oregon Department of State Lands (DSL)
- 19 • Oregon Department of Environmental Quality (ODEQ)
- 20 • Oregon Department of Fish and Wildlife (ODFW)
- 21 • Oregon Department of Forestry (ODF)
- 22 • Oregon Parks and Recreation Department (OPRD)
- 23 • Oregon State Historic Preservation Office (SHPO, an office within OPRD)
- 24 • Oregon Department of Land Conservation and Development (DLCD)
- 25 • Oregon State Marine Board

26 The Department’s list of reviewing agencies also included multiple federal agencies and
27 tribes, most of which elected to submit their comments to the USFS for consideration during the
28 NEPA process. The U.S. Fish and Wildlife Service, however, did submit comments directly to
29 ODOE on the NOI. Although federal permitting requirements are matters outside the Council’s
30 jurisdiction, the applicant must comply with all federal requirements applicable to the proposed
31 facility.

32 On October 18, 2010 Portland General Electric submitted a request to the Department for
33 consideration of a “phased study” approach for the Cascade Crossing site certificate application
34 review. The phased study approach is designed to accommodate the multi-year surveys that are
35 required to generate the level of data necessary to provide evidence to support findings by the
36 Energy Facility Siting Council that a linear energy project will be able to meet Oregon’s siting
37 standards. The phased study approach was presented to the Energy Facility Siting Council on

¹ The elimination of the Willamette Valley upgrades from the project scope eliminates project activity within the boundaries of Clackamas County. The Willamette Valley upgrades were deemed unnecessary in part because the applicant indicates it will be proposing an additional single-circuit line to an existing substation located in Linn County. The Department will recommend that the Council appoint the governing board of Linn County as a Special Advisory Group for the Cascade Crossing project.

1 December 10, 2010. The Council was informed that the approach was being used by both the
2 transmission line projects currently under review (Boardman to Hemingway and Cascade
3 Crossing). To accommodate the need for phased surveys, this project order addresses specific
4 information requirements for the site certificate application for those resources affected by the
5 need for multi-year studies.

6 The definitions in ORS 469.300 and OAR 345-001-0010 apply to the terms used in this
7 project order, except where otherwise stated or where the context indicates otherwise. As used
8 in this project order:

9 “Energy facility” means the proposed 500-kV transmission line.

10 “Related or supporting facilities” means any structure, proposed by the applicant, to be
11 constructed in connection with the construction of the energy facility, meaning that it
12 would not be built but for construction or operation of the energy facility.

13 “Facility” means the energy facility together with any related or supporting facilities,
14 including upgrades to existing infrastructure.

15 “Site” means all land upon which a facility is located or proposed to be located.

16 “Site boundary” means the perimeter of the site of a proposed energy facility, its related
17 or supporting facilities, all temporary laydown and staging areas, and all road and
18 transmission line corridors proposed by the applicant.

19 “Corridor” means a continuous area of land not more than one-half mile in width and
20 running the entire length of the proposed transmission line.

21 “Micrositing corridor” means a continuous area of land within which construction of
22 facility components may occur, subject to site certificate conditions.

23 This project order is issued in accordance with Oregon Administrative Rule (OAR) 345-
24 015-0160, which requires the Department to specify the state statutes, administrative rules, and
25 local, state, and tribal permitting requirements applicable to the construction and operation of the
26 proposed facility (see Sections I through V). It specifies the analysis areas for the proposed
27 facility (Section VI) and discusses comments from reviewing agencies and members of the
28 public that address matters under Council jurisdiction that the applicant shall consider and
29 discuss in the application for a site certificate (Section VII). Section VIII discusses the use of
30 information generated for the NEPA process. The expiration date of the Notice of Intent,
31 discussion of project order amendments, and the applicant’s duty to comply with applicable
32 requirements are discussed in Sections IX, X, and XI, respectively.

33 Oregon Revised Statutes (ORS) 469.401(4) provide that a site certificate issued by the
34 Council does not govern certain matters. This project order does not consider matters outside the
35 Council’s jurisdiction. The applicant must nevertheless comply with all statutes, regulations, and
36 local ordinances applicable to the proposed facility.

37 Therefore, pursuant to ORS 469.330(3) and OAR 345-015-0160(1), the Department
38 issues this order establishing the requirements for a site certificate application for the Cascade
39 Crossing Transmission Line project. As provided in ORS 469.330(4), the Department or the
40 Council may amend this project order at any time.

**CASCADE CROSSING TRANSMISSION LINE – PROJECT ORDER
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1 **I. State Statutes, Administrative Rules, and Related Permit Requirements**
2 **Applicable to the Proposed Facility**

3 This section identifies the Oregon statutes and administrative rules that the
4 applicant must address in the application, and related state permits and approvals.

5 **(a) Energy Facility Siting Council**

6 **Statute and Rule References:** Statutes pertaining to the regulation of energy
7 facilities, starting at ORS 469.300, and administrative rules in OAR Chapter
8 345, including the general provisions of Division 1 and the requirements of
9 Divisions 21, 22, 23, 24, 26, and 27 (as discussed further below).

10 **Permit:** An energy facility site certificate is required before construction or
11 operation.

12 **Discussion:**

13 OAR Chapter 345, Division 21 (Application for Site Certificate)

14 See Section V of this Project Order for a discussion of specific information to
15 be included in the application per the requirements of OAR 345-021-0010.²

16 OAR Chapter 345, Division 22 (General Standards for Siting Facilities)

17 All general standards in OAR Chapter 345, Division 22, apply to the proposed
18 facility. See Section V of this Project Order for a discussion of information to
19 include in specific exhibits of the application to provide the evidence
20 necessary to demonstrate the applicant's ability to comply with each of the
21 standards listed in Division 22.

22 OAR Chapter 345, Division 23 (Need Standard for Nongenerating Facilities)

23 OAR 345-023-0005(1) requires the Council to find that the applicant has
24 demonstrated a need for the proposed facility. See Section V(n) of this project
25 order for further discussion.

26 OAR Chapter 345, Division 24 (Specific Standards for Siting Facilities)

27 Siting Standards for Transmission Lines (OAR 345-024-0090) apply to the
28 proposed facility.

29 OAR Chapter 345, Division 26 (Construction and Operation Rules for
30 Facilities)

31 If the Council issues a site certificate for the proposed facility, the certificate
32 holder must implement a compliance plan, as described in OAR 345-026-
33 0048 and periodically must submit reports as described in OAR 345-026-
34 0080.

35 OAR Chapter 345, Division 27 (Site Certificate Conditions)

² Section V states which paragraphs of OAR 345-021-0010 apply to each exhibit, but does include the text of the requirement—the applicant should carefully review the exact language in each applicable paragraph of OAR Chapter 345, Division 21.

1 The site certificate will contain the mandatory conditions, applicable site-
2 specific conditions, and monitoring conditions described in OAR 345-027-
3 0020, -0023 and -0028.

4 **(b) Oregon Department of Agriculture, Plant Division — Native Plant**
5 **Conservation Program**

6 **Statute and Rule References:** ORS Chapter 564 (Wildflowers; Threatened or
7 Endangered Plants); and OAR Chapter 603, Division 73 (Plants: Wildflowers
8 and Endangered, Threatened, and Candidate Species).

9 **Permit:** None required.

10 **Discussion:** The Oregon Department of Agriculture (ODA) provides technical
11 review and recommendations regarding compliance with the Council's
12 threatened and endangered species standard (OAR 345-022-0070) as it relates
13 to plant species.

14 OAR 603-073-0070 contains the state list of endangered and threatened plant
15 species. OAR 603-073-0080 gives ODA the authority to designate candidate
16 plants. If PGE finds any state-listed threatened or endangered plant species
17 that may be affected by the proposed facility, it must address the requirements
18 of OAR 603-073-0090(5)(d)(A)-(E) in the application for a site certificate.³
19 See Section V(q) of this project order for further discussion of application
20 requirements.

21 **(c) Oregon Department of Environmental Quality — Water Quality Division**

22 **Statute and Rule References:** ORS Chapter 468B (Water Quality); OAR
23 Chapter 340, Divisions 40 (Groundwater Quality Protection), 45 (Regulations
24 Pertaining To NPDES and WPCF Permits), and 71 (Onsite Wastewater
25 Treatment Systems).

26 **Permits:** Individual National Pollutant Discharge Elimination System
27 (NPDES) Permit or NPDES Construction Storm Water 1200-C Permit, Water
28 Pollution Control Facilities (WPCF) Permit, Clean Water Act Section 401
29 Water Quality Certificate, and onsite wastewater system permits.

30 **Discussion:**

31 OAR Chapter 340, Division 45 (NPDES Permit)

32 The U.S. Environmental Protection Agency has delegated authority to ODEQ
33 to issue NPDES Storm Water Discharge permits for construction and
34 operation activities. ODEQ has recommended that the applicant apply for an

³ OAR 345-022-0070 applies only to state-listed plant and animal species. Nevertheless, OAR 345-021-0010(1)(q) requires applicants to consider plant and animal species listed as endangered or threatened under both state and federal law. This requirement applies because the Council, in making its decision, must be mindful of possible adverse impacts to federally listed species. Note also that OAR 345-022-0070 applies to all lands affected by a proposed facility including state, federal and private lands.

1 individual NPDES permit rather than a general 1200-C construction permit,
2 due to the size and scope of the proposed project.

3 In accordance with OAR 345-021-0000(7), the applicant must submit to the
4 Department one copy of all applications for federally-delegated permits
5 (including NPDES permits), or provide a schedule of the date by which the
6 applicant intends to submit the application. *Note that the Department will not*
7 *be able to deem the application for site certificate complete before receiving*
8 *copies of any applicable federally-delegated permit applications and a*
9 *response letter from federally delegated agencies.* The applicant may
10 incorporate this information into Exhibit I (Soils) of the site certificate
11 application or submit it separately in Exhibit BB. See further discussion in
12 Section V(i) of this project order.

13 Although the Council does not have jurisdiction over the federally-delegated
14 permits, the Council may rely on the determinations of compliance and the
15 conditions in the federally-delegated permit in making its determination about
16 whether other standards and requirements under the Council's jurisdiction are
17 met.

18 OAR Chapter 340, Division 45 (WPCF Permits)

19 The NOI did not describe any gravel quarries or concrete batch plants as
20 components of the proposed energy facility. The site certificate application
21 should include a discussion of how the applicant intends to acquire these
22 resources during construction of the facility. If the applicant proposes gravel
23 mining and concrete batch plants as related and supporting facilities under
24 Council rule, a WPCF-1000 permit is required pursuant to OAR 340-045-
25 0033(6).

26 OAR Chapter 340, Division 71 (Onsite Wastewater Treatment Systems)

27 The NOI states that onsite septic systems might be required at the three new
28 substations. If an onsite septic system is constructed in conjunction with a
29 related and supporting facility for the proposed project, it may require a
30 WPCF permit from ODEQ. If a WPCF permit is required, it is a state permit
31 that is under Council jurisdiction. Consequently, the application for site
32 certificate must include all information that would otherwise be required by
33 ODEQ in an application for the WPCF permit. The requirements for the
34 WPCF permit are set forth in OAR Chapter 340, Division 71.

35 See further discussion related to incorporation of this information into the
36 application for site certificate in Section V(v) of this project order.

37 **(d) Oregon Department of Environmental Quality — Land Quality Division**

38 **Statute and Rule References:** ORS Chapters 465 and 466 (Hazardous Waste
39 and Hazardous Materials I and II); and OAR Chapter 340, Divisions 100
40 through 122 (Hazardous Waste Management).

41 **Permit:** None required.

1 **Discussion:** The ODEQ Hazardous Waste program implements requirements
2 of the U.S. Environmental Protection Agency (EPA) and is a federally-
3 delegated program. The applicant must comply with ODEQ regulations
4 concerning the storage and management of hazardous materials and the clean
5 up and disposal of hazardous waste.

6 The requirement is incorporated in the Council’s general standard of review,
7 OAR 345-022-0000. The application for site certificate must include
8 information on hazardous materials use and storage is important in
9 determining the potential for spills that could adversely affect soils and
10 potentially affect the cost and success of site restoration. See further
11 discussion related to incorporation of this information Section V(v) of this
12 project order.

13 **(e) Oregon Department of Environmental Quality — Noise Control**
14 **Regulations**

15 **Statute and Rule References:** ORS 467.020 and ORS 467.030 (Noise
16 Control); and OAR Chapter 340, Division 35 (Noise Control Regulations).

17 **Permit:** None required.

18 **Discussion:** The proposed facility must comply with the noise control
19 regulations applicable to industrial facilities at OAR 345-035-0035. The
20 requirement is incorporated in the general standard of review, OAR 345-022-
21 0000. See further discussion related to incorporation of this information
22 Section V(x) of this project order.

23 **(f) Oregon Department of Environmental Quality — Air Quality Division**

24 **Statute and Rule References:** 40 CFR Part 51 (Requirements for
25 Implementation Plans), 40 CFR Part 52 (Promulgation of Implementation
26 Plans), 40 CFR Part 70 (State Operating Permit Programs) and 40 CFR Part
27 71 (Federal Operating Permit Programs)

28 **Permit:** Prevention of Significant Deterioration (PSD) Permit, Federal
29 Operating Permit (Title V)

30 **Discussion:** On May 13, 2010 the US Environmental Protection Agency
31 (EPA) issued the greenhouse gas (GHG) “Tailoring Rule.” The rule is being
32 phased in steps. Starting in July 1, 2011, the Tailoring Rule will apply to
33 facilities that are otherwise minor for criteria pollutants, but would have GHG
34 emissions above certain thresholds, and Title V permits or PSD permits could
35 be required.

36 The NOI states that the project will emit no pollutants during operation and
37 does not require permits from the ODEQ, the need for which are based on
38 emissions of criteria pollutants. However, the Department understands that
39 sulfur hexafluoride may be used at substations as a gaseous dielectric for high-
40 voltage power applications. The Tailoring Rule could require facilities to
41 obtain an air quality permit based solely on GHG emissions. Since sulfur

1 hexafluoride has a high global warming potential (23,900 carbon dioxide
2 equivalents), permitting thresholds may be exceeded. If the applicant believes
3 that emissions of greenhouse gases from facility components will not exceed
4 permitting thresholds, please include that discussion in Exhibit E.

5 EPA has delegated authority to ODEQ to administer the air quality Title V
6 permit program. In accordance with OAR 345-021-0000(7), if a PSD permit
7 is required by ODEQ for emissions from the proposed facility, the applicant
8 must submit to the Department one copy of the air permit application, or
9 provide a schedule of the date by which the applicant intends to submit the
10 application. *Note that the Department will not be able to deem the application
11 for site certificate complete before receiving the copy of air permit application
12 and a response letter from federally delegated agencies, if such an application
13 is required.* The applicant may incorporate this information into Exhibit Y of
14 the site certificate application. See further discussion in Section V(y) of this
15 project order.

16 Although the Council does not have jurisdiction over the federally-delegated
17 permits, the Council may rely on the determinations of compliance and the
18 conditions in the federally-delegated permit in making its determination about
19 whether other standards and requirements under the Council’s jurisdiction are
20 met.

21 **(g) Oregon Department of Fish and Wildlife**

22 **Statute and Rule References:** ORS Chapter 496 (Application,
23 Administration and Enforcement of Wildlife Laws); ORS Chapter 497.308
24 (Wildlife Holding and Habitat Removal Permits) ORS Chapter 498 (ORS
25 498.301 through 498.346—Screening and By-pass Devices for Water
26 Diversions or Obstructions); ORS Chapter 506 (ORS 506.036—Protection
27 and Propagation of Fish and ORS 506.109—Food Fish Management Policy);
28 ORS Chapter 509 (ORS 509.140—Placing Explosives in Waters and ORS
29 509.580 through 509.910—related to Fish Passage); and OAR Chapter 635,
30 Division 44 (Holding, Propagating, Protected Wildlife), Division 100
31 (Wildlife Diversity Plan), Division 415 (Fish and Wildlife Habitat Mitigation
32 Policy), and Division 425 (In-Water Blasting Permits)

33 **Permit:** An In-Water Blasting Permit may be required if explosives would be
34 used during construction of the facility.

35 **Discussion:**

36 ODFW provides technical review and recommendations on compliance with
37 Council standards. ODFW will base its review and recommendations on state
38 wildlife policy and threatened and endangered species policy (Application,
39 Administration and Enforcement of Wildlife Laws, see ORS 496.012 and
40 ORS 496.171 - .192). See Section V(p) of this project order for further
41 discussion of information requirements to address the regulations cited below.

42 OAR Chapter 635, Division 44 (Holding, Propagating, Protected Wildlife)
43 states that “it is unlawful for any person to hunt, trap, pursue, kill, take, catch,

1 angle for, or have in possession, either dead or alive, whole or in part,” any of
2 the species listed [see OAR 635-044-0130(1)]. Based on a recent meeting
3 with ODFW, the application for site certificate should include information
4 related to the applicant’s plan for protecting the listed species during
5 construction of the facility.

6 OAR Chapter 635, Division 100 (Wildlife Diversity Plan) provides authority
7 for adoption of the state sensitive species list and the Wildlife Diversity Plan
8 and contains the State list of threatened and endangered wildlife species. The
9 application for site certificate must include a list of both state-listed and
10 federally-listed threatened and endangered wildlife species and State Sensitive
11 Species that have potential to occur in the analysis area.

12 OAR Chapter 635, Division 415 (Fish and Wildlife Habitat Mitigation Policy)
13 classifies six habitat categories and establishes a mitigation goal for each
14 category. The applicant for a site certificate must identify the appropriate
15 habitat category for all areas affected by the proposed facility and provide the
16 basis for each category designation, subject to ODFW review. The applicant
17 must show how it would comply with the habitat mitigation goals and
18 standards by appropriate monitoring and mitigation.

19 OAR Chapter 635, Division 425 (In-Water Blasting Permits) contains
20 requirements for in-water blasting activities. In the event that construction of
21 the facility would require the use of explosives on, under, or in Oregon waters
22 or in a location that might affect fish or other wildlife or their habitat, an in-
23 water blasting permit would be required. An application for an in-water
24 blasting permit must include the information necessary to meet the
25 requirements of ORS 509.140 and OAR 635-425-0000 through 635-425-0050.

26 **(h) Oregon Department of Geology and Mineral Industries**

27 **Statute and Rule Reference:** OAR 345-022-0020 (Structural Standard)

28 **Permit:** None required.

29 **Discussion:** The Department of Geology and Mineral Industries (DOGAMI)
30 provides technical review and recommendations on compliance with the
31 Council’s structural standard, OAR 345-022-0020. The applicant must
32 provide evidence of consultation with DOGAMI regarding the level of
33 geologic and geotechnical investigation practical for the application. See
34 Section V(h) of this project order for additional discussion concerning
35 application requirements.

36 **(i) Oregon Parks and Recreation Department—State Historic Preservation**
37 **Office**

38 **Statute and Rule References:** ORS 97.745 (Indian Graves and Protected
39 Objects); ORS 358.920 (Archaeological Objects and Sites); ORS 390.010
40 (Outdoor Recreation); ORS 390.235 (Archaeological Sites and Historical
41 Material); and OAR Chapter 736, Division 51 (Archaeological Permits).

1 **Permit:** An archaeological permit may be required to conduct archaeological
2 investigations.

3 **Discussion:** OPRD-SHPO provides technical review and recommendations
4 related to the Council’s Historic, Cultural and Archaeological Resources
5 Standard (OAR 345-022-0090). See Section V(s) of this project order for
6 additional discussion concerning application requirements.

7 **(j) Oregon Parks and Recreation Department**

8 **Statute and Rule References:** ORS 390.805 through 390.925 (Scenic
9 Waterways)

10 **Permit:** Unknown

11 **Discussion:** OPRD administers the state’s Scenic Waterways Program. The
12 application for a site certificate should include all of the information required
13 by ORS 390.845 regarding the crossing of Scenic Waterways designated by
14 rule. See Section V(l) of this project order for additional discussion
15 concerning application requirements.

16 **(k) Oregon Department of State Lands — Removal-Fill Authorizations**

17 **Statute and Rule References:** ORS 196.800-990 (Removal of Material;
18 Filling); and OAR Chapter 141, Division 85 (Administrative Rules Governing
19 the Issuance and Enforcement of Removal-Fill Authorizations Within Waters
20 of Oregon Including Wetlands).

21 **Permit:** A removal-fill permit is required if 50 cubic yards or more of
22 material is removed, filled or altered within a jurisdictional water of the State
23 (OAR 141-085-0520). Removal-fill permit(s) are state permits under Council
24 jurisdiction.

25 **Discussion:** The applicant should include in its application information to
26 support a finding on whether removal-fill permits will be required. See
27 Section V(j) of this project order for additional discussion concerning
28 application requirements.

29 **(l) Oregon Department of State Lands — Easement Authorizations**

30 **Statute and Rule References:** ORS Chapter 273 (State Lands Generally);
31 and OAR Chapter 141, Division 122 (Rules for Granting Easements on Trust
32 and Non-Trust Land).

33 **Permit:** Easement to construct transmission line on state land.

34 **Discussion:** Written authorization in the form of an easement from DSL is
35 required for development activities on state land, including use or crossing of
36 the John Day and Deschutes Rivers. The easement(s) must be obtained prior
37 to the start of facility construction. The DSL easement is not under Council
38 jurisdiction. The applicant should contact DSL directly to determine the
39 requirements for easement applications.

1 **(m) Oregon Department of Land Conservation and Development**

2 **Statute and Rule References:** ORS Chapter 469, Division 504

3 **Permit:** None required.

4 **Discussion:** The proposed facility must comply with the Council's General
5 Standard regarding Land Use (OAR 345-022-0030) to ensure the facility
6 complies with statewide planning goals adopted by the Land Conservation and
7 Development Commission. The NOI indicates that the applicant intends to
8 seek a Council determination under ORS 469.504(1)(b) for compliance with
9 applicable statewide planning goals. The final selection of land use path is not
10 made until the application for site certificate is submitted. However, once
11 made in the application, the election of land use path is final.

12 The Department of Land Conservation and Development (DLCD) issues no
13 permit but will provide additional review for compliance with statewide
14 planning goals and with directly applicable DLCD rules. See Section V(k) of
15 this project order for additional discussion concerning application
16 requirements to demonstrate compliance with Oregon's land use laws.

17 **(n) Oregon Department of Forestry**

18 **Statute and Rule References:** ORS 527.610-.770 (Oregon Forest Practices
19 Act), 527.990(1) (Criminal Penalties), and 527.992 (Civil Penalties); and
20 OAR Chapter 629, Divisions 600-680

21 **Permit:** Permit to Operate Power Driven Machinery

22 **Discussion:** Much of the proposed project appears to be located within forest
23 land, which will require a Permit to Operate Power Driven Machinery from
24 the Oregon Department of Forestry (ODF). The applicant should contact
25 ODF to determine the requirements for obtaining the permit(s).

26 If the removal of trees would be necessary as part of the proposed project, and
27 such removal is part of a commercial operation, then that activity may be
28 subject to the Oregon Forest Practices Act. Information regarding these
29 permits, and analysis of whether the proposed project is subject to the
30 requirements of the Oregon Forest Practices Act, should be included in
31 Exhibit BB of the application for site certificate. See Section V(bb) of this
32 project order for additional discussion.

33 **(o) Oregon Department of Transportation**

34 **Statute and Rule References:** OAR Chapter 734, Division 51 (Highway
35 Approaches and Access Control), and Division 55 (Pole Lines, Buried Cables,
36 and Miscellaneous Operations)

37 **Permit:** Access Management Permit and Utility Facility Permit

38 **Discussion:** Any utility installations within the right of way of a state highway
39 in Oregon will require a Utility Facility Permit issued by the Oregon
40 Department of Transportation (ODOT). No utilities may be installed within

1 an interstate highway right of way. Utilities may cross an interstate highway
2 but may not be sited longitudinally within the operating interstate highway
3 right of way (OAR 734-055-0080).

4 Any access from Oregon state highways would require an access permit,
5 which may be issued by several ODOT District Offices that supervise the
6 different regions along the transmission line route (for example, the District
7 12 office in Pendleton, and the District 12 office in The Dalles). ODOT does
8 not typically allow access to utilities from an interstate highway.

9 **(p) Oregon Water Resources Department — Water Rights/Adjudications**
10 **Division**

11 **Statute and Rule References:** ORS Chapters 536 through 540 (Water
12 Resources/Water Rights); and OAR Chapter 690 (Water Resources
13 Department), Divisions 1 through 410.

14 **Permit:** A Limited License for construction use or other Water Right Permits
15 are required if new water rights are necessary for the project.

16 **Discussion:** The applicant must identify the sources of water to be used
17 during construction and operation of the proposed facility. See Section V(o)
18 of this project order for additional discussion.

19
20 **II. NATIVE AMERICAN TRIBES**

21 **Statute and Rule References:** None

22 **Permit:** A portion of the proposed project is routed over land owned and
23 managed by the Confederated Tribes of Warm Springs (CTWS) Reservation.
24 Any permits or easements required by CTWS to cross tribal land are outside of
25 Council jurisdiction and are the responsibility of the applicant.

26 **Discussion:** The application for a site certificate should include evidence of
27 consultation with affected tribes, including CTWS, the Confederated Tribes of the
28 Umatilla Indian Reservation, the Confederated Tribes of Grand Ronde, and the
29 Confederated Tribes of the Siletz regarding archaeological and cultural sites and
30 materials within the site boundary. Although not identified by the Commission
31 on Indian Services as presented in the NOI, the Yakama Tribe has expressed
32 interest in the proposed project, and should be included in communications related
33 to the application review. The affected tribes provide technical review and
34 recommendations in reference to the Council’s Historic, Cultural, and
35 Archaeological Resources Standard (OAR 345-022-0090).

1 **III. APPLICABLE LOCAL GOVERNMENT ORDINANCES**

2 **Statute and Rule References:** Applicable substantive criteria from County Code
3 and Comprehensive Plans of Marion, Linn⁴, Wasco, Sherman, Gilliam, and
4 Morrow Counties.

5 **Permit:** Conditional Use Permits and Zoning Approvals.

6 **Discussion:** The applicant should review the comments received from each
7 county and contact each County Planning Department to discuss the requirements
8 for conditional use permits or applicable zoning approvals in each jurisdiction.

9 In the application for a site certificate, the applicant should include information
10 necessary to demonstrate compliance with the substantive criteria from each
11 County code and comprehensive plan that are applicable to issuance of the
12 required permits and approvals. Due to the number of land use jurisdictions
13 through which the project is proposed to cross, there may be substantive criteria
14 applicable in more than one jurisdiction. The applicant is expected to work with
15 the ODOE to develop a framework for identifying and responding to all local land
16 use criteria.

17 Marion and Morrow Counties have provided written comment on the Cascade
18 Crossing NOI with applicable rules, ordinances, and comprehensive plan goals
19 and policies. The criteria and comments provided by those counties are
20 incorporated in this order by reference.

21 As provided in ORS 469.401(3), if the Council issues a site certificate, the
22 Counties will be bound to issue the conditional use permits, subject to the
23 conditions set forth in the site certificate.

24 **IV. OTHER CONSTRUCTION-RELATED REGULATIONS**

25 If the Council issues a site certificate, the certificate holder must comply with
26 construction-related regulations that apply to the proposed facility. As provided under
27 ORS 469.401(4), the site certificate does not address these regulations.

28 **V. APPLICABLE REQUIREMENTS FROM OAR CHAPTER 345, DIVISION 21**

29 In its application for a site certificate, the applicant must adhere to the general
30 requirements under OAR 345-021-0000, particularly the submittal of information in
31 sections (6) and (7) regarding the status of non-federally-delegated and federally
32 delegated permits. OAR 345-021-0010(1) identifies the required contents of an
33 application for a site certificate. Each of the paragraphs below indicates which
34 provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the proposed facility. The
35 application should also include the information described in OAR 345-021-0010(2) and

⁴ Clackamas County is not listed because the applicant has informed the Department that the Willamette Valley upgrades originally proposed in the NOI are not going to be included in the application. However, the proposed design change will now involve land in Linn County.

1 (3). Note that Council rules allow the information required for a specific exhibit (as
2 listed below) to be included in a different exhibit, if appropriate.

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

4 Paragraphs (A) through (D) apply. Note that paragraph (B) calls for a list of
5 “participating persons, other than individuals.” “Person” is defined in OAR
6 345-001-0010(45). Include in the application information about all third-party
7 entities (persons other than individuals) that are important to the project.

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

9 All paragraphs apply except (A)(vi), (vii), and (viii).

10 The description of the proposed facility in the application will form the basis
11 for the description of the facility in the site certificate. The site certificate will
12 require that the applicant build the facility “substantially as described.”

13 Exhibit B will also provide the basis for the project description in the notice of
14 application that ODOE will issue to reviewing agencies and public.

15 Therefore, Exhibit B should describe the project in enough detail for members
16 of the public and reviewing agencies to make informed comments.

17 The application must clearly describe the width of the corridor that will form
18 the site boundary of the transmission line and any related and supporting
19 facilities. Construction activities outside the site boundary will not be
20 allowed, and all areas within the proposed site boundary must be surveyed for
21 biological and cultural resources in accordance with approved workplans prior
22 to the start of construction. The application must specify the width of the
23 permanent right-of-way (ROW) the applicant will request, and the basis for
24 the ROW width. The Council may direct the applicant to acquire a narrower
25 ROW in areas that are important for agriculture or for habitat, or it may allow
26 wider ROWs at certain locations where the applicant requires siting
27 flexibility. The application must explain in detail what limitations are placed
28 on property owners in the transmission line right-of-way.

29 The alternatives analysis described in section OAR 345-021-0010(1)(b)(D)
30 must be consistent with the analysis required by ORS 215.275 and the
31 required information in this rule. The Council recognizes that some of the
32 factors in this rule compete with one another (for example, the apparent
33 conflict between avoiding habitat land and avoiding farm land), but expects
34 the application to demonstrate that all required factors were considered.

35 **(c) Exhibit C – Location**

36 All paragraphs apply. Maps included in Exhibit C should provide enough
37 information for property owners potentially affected by the facility to
38 determine whether their property is within or adjacent to the site. Maps
39 should indicate the “site boundary” as defined in OAR 345-001-0010(53).
40 Major roads should be named. The application for a site certificate should
41 include identification of lands enrolled in the Conservation Reserve Program

1 and lands currently zoned as Exclusive Farm Use. OAR 345-021-0010(1)(c)
2 requires submittal of maps drawn to “a scale of 1 inch = 2,000 feet or smaller
3 when necessary to show detail.”

4 Maps should clearly show the boundaries of the proposed corridor within
5 which the transmission line would be constructed, and should include familiar
6 landmarks such as roads and existing power lines that reviewing agencies and
7 affected landowners may use to readily identify the proposed route. Aerial
8 photographs with all roads identified are helpful for public interpretation and
9 review. All proposed access roads, temporary laydown areas, substations, and
10 other related or supporting facilities and their site boundaries must be
11 identified.

12 This exhibit of the application should contain a table listing the approximate
13 land areas for both temporary disturbance associated with construction and
14 permanent footprint of structures associated with facility operation for each
15 type of disturbance or structure, including roads. This information should be
16 consistent with information provided in other exhibits, including Exhibit B,
17 Exhibit P, and Exhibit W.

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

19 All paragraphs apply. The Council’s review of the applicant’s ability to
20 successfully construct and operate the project “in accordance with site
21 certificate conditions” is not limited to the applicant’s ability to construct a
22 transmission line. The application must also provide evidence that the
23 applicant will comply with conditions regarding minimization and mitigation
24 of impacts on the resources protected by Council standards and that the
25 applicant has demonstrated its ability to comply with the applicable
26 regulations of other agencies.

27 Exhibit D should include a regulatory compliance history for the last three
28 years that is focused on similar facilities owned or operated by the applicant,
29 such as transmission lines and substations. If possible, evidence of successful
30 completion of mitigation projects should also be provided.

31 **(e) Exhibit E – Permits**

32 All paragraphs apply. Although the Council does not review for compliance
33 with federal permits, the application should describe federal permits
34 particularly as federal permitting requirements are often relied on as evidence
35 of compliance with EFSC or local standards. Ensure that Exhibit E identifies
36 and discusses all the possible permits listed in Section I of this project order.

37 **(f) Exhibit F – Property Owners**

38 The proposed transmission line corridor crosses farm and forest zones and lies
39 partially within an urban growth boundary. Accordingly, the distances in
40 paragraphs (A), (B), and (C) apply to different portions of the site boundary.
41 In the NOI, PGE identified property owners with 750 feet of the transmission

1 line boundary, and applied the distances in OAR 345-021-0010(1)(f) to the
2 Willamette Valley infrastructure upgrades, which is compliant with the rule.

3 Due to the extended timeline of the application and review process for a
4 proposed project of this scope, properties may change hands and owners listed
5 on the property tax rolls may change. The Department also notes that some
6 properties have multiple owners. The notification requirement is for notice to
7 all persons who own property within the specified distance from the proposed
8 corridor. Therefore, if a property has multiple owners, all must receive notice.
9 The property owner list from the NOI should be checked and updated just
10 prior to the submittal of the preliminary application. The Department requests
11 that the property owner list be broken down by county, as the county will be
12 asked to verify the list provided in the application (unless the application
13 includes evidence that the list provided was generated by the county in the
14 first place). It is possible that the Department will request the list be updated
15 again as part of its completeness determination.

16 The Department anticipates that the applicant would not object to the
17 Department utilizing the project mailing list currently maintained by the
18 applicant to provide public notification when the application is deemed
19 complete. Please describe in Exhibit F how the applicant will ensure that the
20 project mailing list it maintains will include all of the property owners listed
21 in Exhibit F of the application for site certificate. The Department will require
22 evidence for the administrative record that the mailing met the requirements
23 of OAR 345-021-0010(1)(f) for property owner notification.

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

25 All paragraphs apply. See discussion in Section I(d) of this project order
26 regarding ODEQ Land Quality Division’s requirements for hazardous
27 materials used and stored at the facility, or at temporary access and laydown
28 areas. The Department also uses the materials analysis to identify any
29 hazardous materials whose management and storage could affect the cost of
30 site restoration because of the possibility of spills. The applicant should
31 ensure that the application addresses any proposed fuel storage areas, vehicle
32 maintenance areas, or other areas that will be utilized for activities that could
33 result in a spill of a hazardous substance.

34 **(h) Exhibit H – Geology**

35 All paragraphs apply except (E).

36 The Department understands that detailed site-specific geotechnical
37 investigation for the entire site boundary is not practical in advance of
38 completing the final facility design and obtaining full site access. However,
39 the rule requires evidence of consultation with the Oregon Department of
40 Geology and Mineral Industries (DOGAMI) prior to submitting the
41 application if the applicant proposes to base Exhibit H on limited pre-
42 application geotechnical work. Exhibit H should include written evidence of

1 consultation with DOGAMI regarding the level of geologic and geotechnical
2 investigation determined to be practical for the application submittal.

3 Any geotechnical reports included in Exhibit H as supporting evidence that
4 the proposed facility will meet the Council’s structural standard should follow
5 the guidelines of DOGAMI’s “Open File Report 00-04 “Guidelines for
6 Engineering Geologic Reports and Site Specific Seismic Hazard Reports.”

7 Note that OAR 345-021-0010(1)(h), paragraphs (A), (F)(i), and (F)(iv)
8 contain references to outdated guidelines and codes. Until such time that the
9 Council rules can be revised to reflect current standards, the Department
10 requests that applicants consult directly with DOGAMI, determine the most
11 current structural standards that apply to its facility, then use those codes to
12 prepare Exhibit H. The application should clearly note which codes and
13 guidelines were used to prepare the information in Exhibit H. Exhibit H
14 should also provide evidence that the current codes are equivalent to or more
15 stringent than those cited in the Council’s rules, and that the applicant agrees
16 to construct the facility in accordance with the current codes and guidelines.

17 **(i) Exhibit I – Soils**

18 All paragraphs apply. The applicant should include information describing
19 the impact of construction and operation of the proposed facility on soil
20 productivity in affected farm and forest zones. Describe all measures
21 proposed to maintain soil productivity during construction and operation. The
22 applicant should consult with local farmers, landowners, soil conservation
23 districts, and federal land managers regarding mitigation of impacts to farm
24 and forest lands. Specific discussion should include weed encroachment,
25 interference with irrigation equipment, and the potential for restrictions to
26 aerial applications caused by the proximity of transmission towers.

27 Exhibit I should also include the required evidence related to the federally-
28 delegated National Pollutant Discharge Elimination System (NPDES) 1200-C
29 permit application (alternatively, the NPDES information could be
30 incorporated into Exhibit BB—Other Information). As stated in Section I(c)
31 of this project order, OAR 345-021-0000(7) requires the applicant to submit
32 one copy of all applications for federally-delegated permits, or provide a
33 schedule of the date by which the applicant intends to submit the application.
34 In addition to a copy of the federally delegated permit application, the
35 applicant must also provide a letter or other indication from the ODEQ stating
36 that the agency has received a permit application from the applicant,
37 identifying any additional information the agency is likely to need from the
38 applicant based on the agency’s review of the application, and estimating the
39 date when the agency will complete its review and issue a permit decision.

40 The applicant should emphasize discussion of erosion control in Exhibit I,
41 especially for impacted forestland to minimize and mitigate damage to forest
42 soils and streams. A draft erosion control and sedimentation plan must be

1 provided for review (if not already incorporated into an attached NPDES
2 permit application).

3 **(j) Exhibit J – Jurisdictional Waters**

4 All paragraphs apply.

5 NOTE: OAR Chapter 140, Division 85 (“Administrative Rules Governing the
6 Issuance and Enforcement of Removal-Fill Authorizations Within Waters of
7 Oregon Including Wetlands”) has been revised since the last time the
8 Council’s rules were updated. The citation in OAR 345-021-0010(1)(j) to
9 rules in Division 85 of OAR Chapter 141 are no longer valid. For example,
10 reference to OAR 141-085-0010 should now be 141-085-0510 (Definitions).
11 The citation to OAR 141-085-0018 should now be to OAR 141-085-0520.
12 The applicant should consult directly with the Oregon Department of State
13 Lands if there are any questions regarding the applicable regulations. The
14 applicant should also note that further revision of the Removal-Fill rules are
15 currently being considered by the Oregon Legislature—if passed the revised
16 rules will apply to the facility.

17 The Department understands that the phased study approach is presenting
18 challenges to the applicant’s ability to obtain the information necessary to
19 prepare a Joint Permit Application to DSL and the Corps of Engineers. To the
20 extent possible, the preliminary application should include identification of
21 wetlands and waters of the State for all areas to be affected by the proposed
22 facility, including access roads and temporary laydown areas.

23 The applicant should include in Exhibit J as much of the information required
24 by OAR 345-021-0010(1)(j) as possible, and the proposed path forward to
25 obtain the information necessary for the Council to find that the requirements
26 for a removal-fill permit have been met. Information would include an
27 itemized demonstration of each applicable provision of ORS 196.825 (Criteria
28 for Issuance of a Permit) and OAR 141-085-0550 (Application Requirements
29 for All Authorizations). DSL requires a compensatory wetland, compensatory
30 non-wetland, and temporary impacts mitigation plan be submitted with a
31 removal-fill application.

32 Written authorization in the form of an easement from DSL is required for
33 development activities on state land, including use or crossing of the John Day
34 and Deschutes Rivers. The easement(s) must be obtained prior to the start of
35 facility construction. The DSL easement is not under Council jurisdiction.
36 The applicant should consult with DSL to determine requirements and review
37 timelines.

38 **(k) Exhibit K – Land Use (Statewide Planning Goals)**

39 Paragraphs (A), (C), and (D) of the rule apply.

40 The NOI indicates that there is federal land within the site boundary, therefore
41 the applicant should include in its application the information required under
42 Paragraph (D).

1 The NOI states that applicant will seek a Council determination of compliance
2 with the Council’s land use standard under ORS 469.504(1)(b). The applicant
3 should review the comments received from each county and contact each
4 affected county planning department to ensure that the application addresses
5 the most current requirements for conditional use permits or applicable zoning
6 approvals in each jurisdiction.

7 Exhibit K must include information necessary to demonstrate compliance with
8 the substantive criteria from each county code and comprehensive plan that
9 are applicable to issuance of the required permits and approvals. Due to the
10 number of land use jurisdictions through which the project is proposed to
11 cross, there may be substantive criteria applicable in more than one
12 jurisdiction. The applicant is expected to work with the ODOE to develop a
13 framework for identifying and responding to all local land use criteria.

14 Exhibit K should also provide evidence that the proposed facility would be
15 compatible with farm use, would not seriously interfere with accepted farm
16 practices, and would not significantly increase the cost of accepted farm
17 practices.

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

19 All paragraphs apply. The applicant should thoroughly research all of the
20 protected areas listed at OAR 345-022-0040 and ensure that the application
21 for site certificate addresses the potential impacts to protected areas within the
22 Analysis Area identified in Section VI.

23 Note that OAR 345-022-0040(1)(H) generally prohibits siting of transmission
24 lines through protected areas, which include state parks. However, under
25 OAR 345-022-0040(2), EFSC may approve a route that passes through a
26 protected area if the council determines that other routes outside the protected
27 area would “have greater impacts.” If the transmission line routing proposed
28 by the applicant will pass through a protected area, the applicant should
29 describe in detail the alternative routes it studied and provide analysis in the
30 application to support a finding that routing the transmission line through the
31 protected area would have less impacts than the alternatives.

32 Where OAR 345-022-0040(3) is applicable, ensure that the application
33 provides evidence that the proposed line is routed within 500 feet of an
34 existing utility right of way containing at least one transmission line with a
35 voltage rating of 115 kV or higher.

36 Ensure that each potentially impacted state scenic waterway listed in ORS
37 390.826 is addressed in Exhibit L and that the evidence to address the
38 requirements of ORS 390.845 is also included. Provide an analysis of the
39 evidence to support a finding by the Council that the requirements of the
40 Oregon Parks and Recreation Department related to the siting of a utility
41 facility in a scenic waterway have been met.

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

2 All paragraphs apply.

3 **(n) Exhibit N – Need for the Facility**

4 All paragraphs apply.

5 The Council requires applicants to demonstrate public need for an electric
6 transmission line facility under the least-cost plan rule (OAR 345-023-0020),
7 the system reliability rule for transmission lines (OAR 345-023-0030), or by
8 demonstrating that the transmission line is proposed to be within a “National
9 Interest Electric Transmission Corridor” designated by the US Department of
10 Energy under Section 216 of the Federal Power Act. The applicant may
11 provide evidence demonstrating the need for the facility under one or more of
12 the methods described in Division 23.

13 **(o) Exhibit O – Water Use**

14 All paragraphs apply except (D).

15 Exhibit O of the application must identify the sources of water to be used
16 during construction and operation of the proposed facility, the water right
17 under which the water would be provided, the quantity of water needed, and
18 the means of disposal of all water discharges from the proposed facility. The
19 application should provide evidence and analysis to determine whether a new
20 water right or water right transfer is required, and if so, evidence that supports
21 a finding by the Council that the water right should be issued. [See ORS
22 Chapter 537 (Appropriation of Water Generally) or transfer of a water use
23 under ORS Chapter 540 (Transfer or Forfeiture of Water Rights), including a
24 discussion and evaluation of all relevant factors, including those factors listed
25 in ORS 537.153(2) and (3), ORS 537.170(8) and OAR Chapter 690, Divisions
26 310 (Water Right Application Processing) and 380 (Water Right Transfers).]

27 Water not obtained from a municipal supplier would require a Limited
28 License. Because such licenses cannot authorize use or discharge of water
29 outside a single basin, multiple Limited Licenses may be required. Limited
30 Licenses are also under Council jurisdiction.

31 If a new water right, water right transfer, or Limited License is required,
32 Exhibit O must include adequate evidence for the Council to make findings.
33 The applicant should consult with the Oregon Water Resources Department to
34 ensure that all information normally required by OWRD is included in the site
35 certificate application.

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

37 All paragraphs apply. Please refer to Section I(f) of this project order for a
38 discussion of ODFW habitat mitigation goals and policies, and Section VII for
39 agency comments specific to the proposed transmission line.

1 The applicant has proposed a “phased survey” approach for data collection
2 during the site certificate review process. The Department understands that
3 the entire length of the proposed transmission line corridor has not yet been
4 surveyed, mapped for vegetation types, and categorized under ODFW’s
5 habitat categorization guidance. (Nor has the applicant defined the exact
6 locations of some related and supporting facilities, such as laydown areas, fly
7 yards, or access roads, all of which also requires completion of surveys prior
8 to construction). Nevertheless, Exhibit P should include as much information
9 as possible about the results of the field surveys conducted to date for various
10 biological resources on state, private, and federal lands, and the schedule for
11 future surveys.

12 The information should include the survey methodology, exact survey areas,
13 and the results of all surveys for listed wildlife species, raptor nests, aquatic
14 species, and other biological resources. Surveys must be performed by
15 qualified survey personnel during the season or seasons appropriate to the
16 detection of the species in question. The applicant should also include in
17 Exhibit P its preliminary habitat categorization and tables depicting the
18 estimated temporary and permanent impacts, broken down by habitat
19 categories.

20 At the time of this writing, the applicant has formed several workgroups
21 related to conducting biological resource surveys. Include in Exhibit P (or as
22 attachments to Exhibit P), the description of each workgroup, its membership,
23 its purpose, and copies of any workplans that the workgroup has developed
24 governing survey methodologies. Provide a copy of any programmatic
25 agreements or memorandums of understanding related to biological resources.

26 Exhibit P should include analysis of how the evidence provided supports a
27 finding by the Council that the proposed facility meets the Council’s fish and
28 wildlife protection standard. Provide proposed site certificate conditions for
29 the Council’s consideration related to requirements for the applicant to
30 complete all unfinished surveys within the project’s site boundary prior to
31 construction. The proposed site certificate conditions should also address
32 submittal requirements for reporting future survey results, adjustment of
33 previously calculated impact areas (if necessary), and the applicant’s proposed
34 approach to document approval of final results by agencies or the Council
35 prior to commencing construction activities.

36 OAR 635-044-0130(1) [Nongame Wildlife Protected] states that “it is
37 unlawful for any person to hunt, trap, pursue, kill, take, catch, angle for, or
38 have in possession, either dead or alive, whole or in part,” any of the species
39 listed. Exhibit P should include information about the applicant’s survey and
40 salvage plan to protect the listed species during construction of the facility.
41 This information may be incorporated into a wildlife monitoring and
42 mitigation plan as an attachment to Exhibit P.

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

2 All paragraphs apply.

3 OAR Chapter 635, Division 100 (Wildlife Diversity Plan) and ODFW’s
4 website contain the State list of threatened and endangered wildlife species.
5 The applicant should include in its application for a site certificate a list of
6 both state-listed and federally-listed threatened and endangered wildlife
7 species and State Sensitive Species that have potential to occur in the analysis
8 area. The applicant should identify these species based on a review of
9 literature, consultation with knowledgeable individuals, and reference to the
10 list of species published by the Biodiversity Information Center.⁵

11 As discussed in Section V(p) above, the applicant has proposed a “phased
12 survey” approach for data collection during the site certificate review process,
13 and the Department understands that the applicant’s data at the time of
14 application submittal might be incomplete. Nevertheless, Exhibit Q should
15 include as much information as possible about the results of the field surveys
16 conducted to date for threatened and endangered species and state sensitive
17 species on state, private, and federal lands. The schedule for future surveys,
18 and the estimated date that results will be available, should also be
19 incorporated into Exhibit Q.

20 As for other biological resources, the information should include the survey
21 methodology, exact survey areas, and the results of all surveys. Surveys must
22 be performed by qualified survey personnel during the season or seasons
23 appropriate to the detection of the species in question.

24 Exhibit Q should include analysis of how the evidence provided supports a
25 finding by the Council that the proposed facility meets the Council’s
26 threatened and endangered species standard. Provide proposed site certificate
27 conditions for the Council’s consideration related to requirements for the
28 applicant to complete all unfinished surveys within the project’s site boundary
29 prior to construction. The proposed site certificate conditions should also
30 address submittal requirements for reporting future survey results, and the
31 applicant’s proposed approach to document approval of final results by
32 agencies or the Council prior to commencing construction activities.

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

34 All paragraphs apply. The application should include visual depictions
35 (photo-simulations) of the project’s impact on scenic resources within the
36 analysis area, especially protected areas identified in Exhibit L. Photo-
37 simulations and visual impacts assessments of permanent structures should
38 include substations, in addition to transmission lines/towers, and roads. For
39 the purposes of Exhibit R, “local” land use plans include state, county, and
40 city planning documents or inventories. The applicant should also describe

⁵ Formerly the Oregon Natural Heritage Information Center

1 the measures it will take to minimize significant adverse impacts to important
2 scenic resources identified by reviewing agencies (see Section VII of this
3 order).

4 The Department is aware that the applicant has formed a visual impacts
5 workgroup consisting of state, tribal, and federal agencies. Please incorporate
6 into Exhibit R a description of the workgroup, its purpose, its membership,
7 and any agreements among the various agencies related to the inventory and
8 assessment of visual resources, including visual impacts to cultural resources
9 identified in Exhibit S.

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

11 All paragraphs apply.⁶ The application should include map(s) showing
12 important historic trails, including the Oregon Trail, and discuss measures to
13 avoid or mitigate for impacts to historic trails. SHPO has advised that the
14 proposed transmission line crosses many land forms that are generally
15 perceived to have a high probability for possessing archaeological sites and
16 buried human remains.

17 The applicant has proposed a “phased survey” approach for data collection
18 during the site certificate review process. The Department understands that
19 the entire length of the proposed transmission line corridor has not yet been
20 surveyed for cultural resources, nor has the applicant defined the exact
21 locations of some related and supporting facilities, such as laydown areas, fly
22 yards, or access roads (which also require surveys prior to construction).
23 Nevertheless, Exhibit S should include as much information as possible about
24 the field surveys conducted to date for cultural resources on state, private, and
25 federal lands, and the schedule for future surveys.

26 The information should include the survey methodology, qualifications of
27 survey personnel, exact survey areas, and the results of all surveys. At the
28 time of this writing, the applicant and state and federal agencies have been
29 participating in a cultural resources workgroup. Include in Exhibit S (or as
30 attachments to Exhibit S), the description of the workgroup, its membership,
31 its purpose, and copies of any workplans that the workgroup has developed
32 governing survey methodologies. Provide a copy of any programmatic
33 agreements or memorandums of understanding related to cultural resources.

34 Exhibit S should include analysis of how the evidence provided supports a
35 finding by the Council that the proposed facility meets the Council’s cultural
36 resources protection standard. Provide proposed site certificate conditions for
37 the Council’s consideration related to requirements for the applicant to
38 complete all unfinished surveys within the project’s site boundary prior to

⁶ 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 after consultation with the Department.

1 construction. The proposed site certificate conditions should also address
2 submittal requirements for reporting future survey results, obtaining SHPO's
3 approval of pre-construction cultural resource survey documents, and the
4 applicant's proposed approach to document approval of final results by
5 agencies or the Council prior to commencing construction activities.

6 **(t) Exhibit T – Recreation**

7 All paragraphs apply. The application should carefully analyze the
8 importance of recreational opportunities within the analysis area using the
9 factors listed in OAR Chapter 345, Divisions 21 and 22, and must present
10 evidence that the proposed project is unlikely to have significant adverse
11 impacts on important recreational resources. The applicant should address all
12 recreational opportunities cited by OPRD and public comments discussed in
13 Section VII of this project order. Numerous public comments were received
14 that expressed concern over potential impacts to the Pacific Crest National
15 Trail, Taylor Park and Breitenbush Hot Springs recreational opportunities,
16 among others.

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

18 All paragraphs apply. Include an analysis of estimated facility-related traffic
19 during construction and operation and the potential impact on traffic safety.
20 Discuss transportation of heavy equipment and shipments of facility
21 components during construction, including proposed ground and air
22 transportation routes. The application must demonstrate that the proposed
23 transmission line would not adversely affect the ability of local or volunteer
24 fire fighting organizations to maintain fire safety.

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

26 All paragraphs apply.

27 If an onsite septic system is constructed in conjunction with a related and
28 supporting facility for the proposed project, it may require a WPCF permit
29 from ODEQ. The applicant should provide information demonstrating that
30 the proposed septic system is exempt from the WPCF permit requirement or,
31 if it is not exempt, that it meets the requirements for a permit.

32 Exhibit V must include all information that would otherwise be required by
33 ODEQ in an application for the WPCF permit (See OAR Chapter 340,
34 Division 71). This includes providing evidence that the applicant has verified
35 that the site is suitable for an onsite sewage disposal system by applying to
36 ODEQ or its designated agency for a site evaluation of groundwater and soil
37 conditions.

38 The applicant must comply with ODEQ regulations concerning the storage
39 and management of hazardous materials and the clean up and disposal of
40 hazardous waste. Exhibit V must include a list of all hazardous materials that
41 potentially would be stored or used at the facility site during construction and

1 operation, and a description of the applicant’s plans and programs for storage
2 of hazardous materials and management of hazardous waste. If the applicant
3 proposes any on-site fuel storage during construction, the fuel storage areas
4 and management plan should be described in detail in the application.

5 The proposed project will entail significant clearing activities through forested
6 lands. Exhibit V must contain information on how the applicant will manage
7 or dispose of the debris generated by clearing activities, including brush
8 disposal, and excess material from road cut and fill operation.

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

10 All paragraphs apply. The Department’s *Facility Retirement Cost Estimating*
11 *Guide* (2005) was recently updated with an example calculation for
12 determining the decommissioning costs of a transmission line (which has been
13 provided to the applicant). Should the applicant elect to apply a different cost
14 estimate methodology it must discuss the method with the Department prior to
15 submitting its application. The Council’s Retirement Standard requires a
16 reasonable engineering estimate of the cost to retire the facility. To that end,
17 the application should explain and justify the methodology used to estimate
18 retirement costs, including (but not limited to) pertinent information related to
19 facility components. The information regarding these factors can be placed in
20 Exhibit B or in Exhibit W of the application, but should be clear enough for
21 ODOE staff to review it. At a minimum, facility information should include
22 quantities and detailed proposed unit costs for the following:

- 23 • Types and sizes of transmission line support structures, including
24 height, width, and weight of steel in the structures;
- 25 • Amount of concrete above three feet below grade included in
26 transmission line support structure foundations;
- 27 • Spacing of transmission line support structures;
- 28 • Number of conductors to be mounted on the transmission line support
29 structures;
- 30 • Length, width, and surfacing of new (or modifications to existing)
31 access roads;
- 32 • Scope, size, and types of related or supporting facilities;
- 33 • Estimated area of temporary disturbance during construction of the
34 proposed facility; and
- 35 • Estimated area of permanent disturbance during operation of the
36 proposed facility.

37 The Council’s Retirement Standard also requires evidence that the site can be
38 restored – following facility retirement – to a useful, non-hazardous condition
39 consistent with site’s zoning. If the proposed transmission line is sited on
40 Exclusive Farm Use land, for example, then the site must be restored to a
41 condition suitable for the agricultural use prevalent in the surrounding
42 vicinity.

1 **(x) Exhibit X – Noise**

2 All paragraphs apply. The application must contain a noise analysis and
3 information to support a Council finding that the proposed facility, including
4 any alternative routes proposed, will comply with the requirements of OAR
5 340-035-0035. Exhibit X should address each of the following:

- 6 • Identify all noise sensitive receptors on aerial and topographic maps in
7 Exhibit X within one-half mile of the site boundary from the transmission
8 line and any related and supporting facilities. Provide the distance
9 between facility components and the nearest noise sensitive receptors (as
10 that term is defined by ODEQ). Each noise sensitive receptor should be
11 uniquely identified on all maps, and tables should be provided within
12 Exhibit X that show the receptor identification number, identification of
13 noise sources evaluated, the distance to the noise source(s), and the
14 modeled results.
- 15 • If the applicant elects to conduct ambient baseline sound measurements at
16 one or more locations, provide a draft noise monitoring protocol for
17 Department review and approval prior to conducting any monitoring. The
18 protocol should include a description of the sound survey methodology
19 and assumptions, areas to be surveyed, and the measurement parameters
20 needed to best respond to concerns of the applicable agencies and the
21 public.
- 22 • Predicted noise levels resulting from construction and operation of the
23 proposed facility. Where appropriate, perform noise modeling using the
24 procedures identified in ISO 9613-2 (1996)⁷ accounting for the specialized
25 sound propagation conditions associated with elevated sound sources, i.e.
26 high voltage power lines. For each noise source, specify whether the
27 “general method of calculation” or the “alternate method of calculation” in
28 ISO 9613-2 was used to predict the sound level radiating from the source
29 to a receptor and explain why the method was used.
- 30 • Include information on the noise levels predicted to radiate from the
31 transmission line during late–night and early-morning hours under a range
32 of weather conditions including those that typically result in greater noise
33 production (e.g. high wind and high humidity conditions). Sound
34 propagation calculations should apply meteorological conditions
35 consistent with assumptions as used in source level calculations of corona
36 noise or alternatively site specific meteorological conditions conducive to
37 long range sound propagation.
- 38 • The input data for noise modeling of the transmission line should be
39 developed from standardized engineering technical guidelines and
40 literature sources that reflect *actual* measurements of existing transmission

⁷ ISO 9613-2 (1996): Acoustics – Attenuation of sound during propagation outdoors – Part 2: General method of calculation

1 lines of similar design under similar weather conditions. All reference
2 data and its source shall be provided in the application materials.

- 3 • Base the analysis on conservative assumptions allowing for possible
4 deviations in preferred alignment that may occur within the designated
5 right of way during project construction. The transmission line will be
6 placed nearest the most limiting noise sensitive receptors as would be
7 allowed under applicable safety requirements or other design constraints.
8 Provide a table listing all input parameters used to perform the noise
9 modeling.
- 10 • Describe any measures the applicant proposes to reduce noise levels or
11 noise impacts or to address public complaints about noise from the
12 facility.
- 13 • Describe any measures the applicant proposes to monitor noise generated
14 by operation of the facility.
- 15 • The applicant retains the option to request further consultation with the
16 ODOE to maintain flexibility within the prescribed Project Order as the
17 technical and regulatory compliance approaches are developed during the
18 ASC process.

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

20 The NOI states that the project will emit no pollutants during operation and
21 does not require air permits from the ODEQ’s federally-delegated air
22 program. However, if not otherwise addressed in Exhibit E, Exhibit Y should
23 address whether the May 2013 “Tailoring Rule” promulgated by the EPA
24 applies to the emissions of green house gases (including sulfur hexafluoride)
25 from facility components. If so, provide evidence that emission sources
26 included in the proposed facility do not exceed permitting thresholds. If the
27 evidence shows that a PSD permit will be required, include a copy of the
28 permit application to ODEQ in Exhibit Y, or provide a schedule of the date by
29 which the applicant intends to submit the application.

30 In addition to a copy of the federally delegated permit application, the
31 applicant must also provide a letter or other indication from the ODEQ stating
32 that the agency has received a permit application from the applicant,
33 identifying any additional information the agency is likely to need from the
34 applicant based on the agency’s review of the application, and estimating the
35 date when the agency will complete its review and issue a permit decision.

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

37 Exhibit Z does not apply.

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

39 All paragraphs apply. The information provided by the rule should address
40 public concerns expressed during the scoping period about electric and

1 magnetic fields (EMF) generated by the proposed transmission facility (see
2 Section VII of this order). Although the Council does not have an “EMF
3 Standard,” it does have a statutory mandate to adopt any conditions needed to
4 ensure public health and safety. This mandate provides the regulatory basis
5 for any findings or conditions, including setbacks, based on EMF
6 considerations.

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

8 To the extent that the following issues were not addressed in other exhibits,
9 include information in Exhibit BB related to:

10 (1) The evidence and analysis discussed in Section I(f) of this project
11 order related to the use of equipment that emits sulfur hexafluoride or
12 other greenhouse gases that might trigger the application of the
13 “Tailoring Rule” to one or more components of the proposed facility.

14 (2) The proposed project will require the removal of trees in forested
15 areas, and such removal could be classified as a commercial operation.
16 As discussed in Section I, provide evidence and analysis in Exhibit BB
17 for a determination of whether the construction of the proposed facility
18 is a commercial operation and subject to the requirements of the
19 Oregon Forest Practices Act. If the Act applies, the applicant should
20 consult with ODF to ensure that the application for site certificate
21 contains adequate evidence for the Council to find that construction of
22 the project will meet the requirements of the Oregon Forest Practices
23 Act. Evidence could be provided in the form of written plans
24 developed in consultation with ODF.

25 **(cc) Exhibit CC – Other Law**

26 Exhibit CC applies.

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

28 The Council applies specific standards for transmission lines under its
29 jurisdiction in OAR 345-024-0090. Accordingly, paragraph (C) applies.

30 **VI. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

31 The analysis areas are the minimum areas that the applicant must study for
32 potential impacts from the construction and operation of the proposed facility. The
33 analysis areas described in this project order do not limit the applicant’s responsibility to
34 assess the potential impacts of the facility. They are the areas in which significant
35 adverse impacts from the proposed facility are likely to occur. If significant impacts
36 could occur beyond the analysis areas described here, then the applicant must also assess
37 those impacts in the application for a site certificate and show how the facility would
38 comply with the applicable standard with regard to the larger area where impacts could
39 occur.

1 For all potential impacts, the analysis area includes all the area within the site
2 boundary, as defined in OAR 345-001-0010(53) and in this order. The application for
3 site certificate must specifically describe the site boundary and provide a map showing
4 the proposed site boundary, including the transmission line corridor and all related and
5 supporting facilities. All environmental impact analysis requirements and analysis areas
6 apply to the entire site boundary, which by definition includes all corridors under
7 consideration, including alternatives. The minimum required analysis areas are presented
8 in the table below.
9

ANALYSIS AREAS		
Affected Standard or Resource	Related Exhibit	Analysis Area⁸
Structural Standard	H	The area within the site boundary.
Soils	I	The area within the site boundary.
Wetlands	J	The area within the site boundary.
Land Use	K	The area within the site boundary and one-half mile from the site boundary.
Protected Areas	L	The area within the site boundary and 20 miles from the site boundary, including areas outside the state.
Water Use	O	The area within the site boundary.
Fish and Wildlife Habitat	P	The area within the site boundary and 1/2 mile from the site boundary.
Threatened and Endangered Species	Q	The area within the site boundary and 1/2 mile from the site boundary.
Scenic and Aesthetic Values	R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural, and Archaeological Resources	S	The area within the site boundary and one mile from the site boundary.
Recreational Opportunities	T	The area within the site boundary and two miles from the site boundary.
Public Services	U	The area within the site boundary and 10 miles from the site boundary.
Noise	X	The area within the site boundary and one-half mile from the site boundary.
Electric Transmission Lines	AA	The area within the site boundary.

⁸ 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. Analysis Areas are not the equivalent to “survey areas” that are being developed for field work involving biological, cultural, and visual resources. However, the area within the site boundary as it is defined in the Site Certificate must be completely surveyed for biological and cultural resources prior to construction using methodologies approved by ODOE and related state agencies. Consequently, the applicant should be mindful when developing survey workplans for field work that the resource with the narrowest survey corridor will be controlling when determining the site boundary of the project along any particular linear section.

1 **VII. COMMENTS FROM THE PUBLIC AND REVIEWING AGENCIES**

2 **(a) Public Comments**

3 In addition to applicable rules, statutes, and local land use requirements listed in
4 this order, the application must address issues arising from public comments
5 following an informational meeting on the NOI (OAR 345-015-0130). Pursuant to
6 OAR 345-01500160(1)(g), the issues raised in public comments during the joint
7 ODOE-USFS scoping meetings (referenced in the Background section of this
8 document) are summarized in this order. The summary encompasses public
9 comments received between June 1 and October 11, 2010 (which includes the
10 official public scoping period of June 1 to August 2, 2010 required under NEPA).

11 The Department received over 150 public comments electronically, and by phone,
12 fax, US mail, and comment form submittal during public meetings. All comments
13 were shared with the applicant and the USFS in their entirety and in their original
14 form. The Department has summarized the issues addressed in the public
15 comments according to applicable Council standards; however, the summary
16 presented below is not a substitute for the original comments, nor does it represent
17 the opinions of ODOE or EFSC.

18 Not all issues and questions raised in public comment are matters within EFSC
19 jurisdiction; however, ODOE expects the applicant to work directly with the
20 public, stakeholders, and local governments to address comments to the extent
21 practicable.

22 Comments Related to General Standard of Review (OAR 345-022-0000)

- 23 1) Noise generated during construction is a concern.
24 2) Noise generated during operations is a concern.

25 Comments Related to Soil Protection (OAR 345-022-0022)

- 26 1) Road construction during the rainy season is a concern for land owners.
27 2) The project may increase sedimentation in streams through sediment
28 delivery from roads, increased heavy equipment traffic on existing roads,
29 and construction.
30 3) The applicant should describe mitigation measures, including description
31 of drainage design, culvert upgrades, wet weather limited uses, and
32 decommissioning of roads after project completion.
33 4) Some roads in the project area are steep and will require protection
34 measures to reduce erosion.

35 Comments Related to Land Use (OAR 345-022-0030)

- 36 1) The project will impact land zoned as Exclusive Farm Use (EFU).
37 2) The project will be incompatible with numerous crops and agricultural
38 practices, including aerial application practices.
39 3) The project does not comply with Marion County's Agricultural Goals and
40 Policies.

- 1 4) The project should demonstrate compliance with local zoning laws and
2 Statewide Planning Goals.
- 3 5) The project would not comply with existing Marion County Conditional
4 Use Permit held by Breitenbush Hot Springs Resort and Conference
5 Center.

6 Comments Related to Protected Areas (OAR 345-022-0040)

- 7 1) Tree removal during construction in national forests is a concern.
- 8 2) Discuss cumulative impacts to the Pacific Crest National Scenic Trail,
9 accounting for other proposed projects.
- 10 3) Demonstrate no adverse impacts to the Upper Clackamas and John Day
11 Wild and Scenic Rivers, and the Deschutes River.

12 Comments Related to Fish and Wildlife Habitat (OAR 345-022-0060)

- 13 1) Wildlife habitat enhancement should be performed as a condition of the
14 Project licensing, including creation and maintenance of early seral stage
15 vegetation for deer and elk.
- 16 2) The project will degrade forest land and impact fish and wildlife habitat.
- 17 3) Invasive plant management should be addressed.
- 18 4) The project will result in continued tree removal along the project
19 corridor.
- 20 5) Revegetation should be performed per landowners' specification.
- 21 6) There should be a commitment to avoiding ecologically sensitive areas.
- 22 7) The priority path for the project corridor should consist of existing rights-
23 of-way, degraded agricultural lands, and other previously impacted areas,
24 in order to minimize impacts to wildlife habitat.
- 25 8) The project may result in temperature increases in streams due to
26 vegetation clearing.
- 27 9) Impacts to bird and bat species (specifically including migratory patterns)
28 should be addressed.
- 29 10) Herbicides should not be used in clearing and maintaining the rights-of-
30 way.
- 31 11) Mitigation measures should include culvert upgrade for fish passage.
- 32 12) Identify acreage of mature or old-growth forest in the Mount Hood
33 National Forest and/or neighboring Bureau of Land Management lands
34 that will be cut to accommodate the project.
- 35 13) Selection of forage meadow sites should be identified by the federal
36 agency wildlife biologist in close collaboration with the local ODFW
37 biologist.
- 38 14) Establish a trust fund for offsite mitigation to compensate for wildlife
39 losses due to habitat fragmentation and connectivity impacts of the lines as
40 a whole.

1 Comments Related to Threatened and Endangered Species (OAR 345-022-0070)

- 2 1) The project is detrimental to spotted owls.
3 2) Provide studies identifying threatened or endangered species.
4 3) Avoid harmful impacts to state-listed threatened or endangered species.
5 4) Pre-disturbance surveys should be conducted and detailed.
6

7 Comments Related to Scenic and Aesthetic Values (OAR 345-022-0080)

- 8 1) The project will impact scenic and aesthetic values in the Willamette
9 Valley.
10 2) Demonstrate that the project cannot be done without impact to scenic
11 landscape (e.g. constructed in developed corridors or underground).
12 3) The project will impact scenic and aesthetic values at Taylor Park.
13 4) The project will impact scenic and aesthetic values at Breitenbush Hot
14 Springs Resort and Conference Center.
15 5) The project would result in cumulative impacts to scenic and aesthetic
16 values due to existing towers and transmission lines in the area.
17 6) The project will disrupt scenic and aesthetic values in unspoiled
18 wilderness areas.
19 7) The project will impact Wild and Scenic Rivers.

20 Comments Related to Historic, Cultural, and Archaeological Resources (OAR
21 345-022-0090)

- 22 1) The route could impact National Historic Trails and Oregon Historic
23 Trails.
24 2) Oregon Trail routes should not be used as access routes during
25 construction.
26 3) The project should avoid pioneer graves on private property.

27 Comments Related to Recreation (OAR 345-022-0100)

- 28 1) Impacts to Taylor Park would affect over 140 families.
29 2) The project will result in impacts to recreational uses at Mount Hood and
30 Willamette National Forests.
31 3) The project will result in impacts to recreational uses at Breitenbush Hot
32 Springs Retreat and Conference Center.
33 4) The project would run lines through Mehama and the Santiam Canyon, a
34 recreational area in the Willamette Valley that is already blighted with
35 high tension wires.
36 5) The applicant should identify recreational opportunities potentially
37 affected by the project, including impacts from roads, traffic, vehicle
38 exhaust, tower construction, litter, and noise.

1 Comments Related to Public Services (OAR 345-022-0110)

- 2 1) The reliability, integrity, and land rights of electrical utility cooperatives
3 should not be lowered by the project.
4 2) The project crosses through the Wasco Electric Cooperative allocated
5 service territory and above and below ground utility corridors and requires
6 permits from the Wasco Electric Cooperative.
7 3) The project should evaluate crossings of underground utilities, including
8 gas pipelines.

9 Comments Related to Need Standard for Nongenerating Facilities (OAR 345-023-
10 0005)

- 11 1) Demonstrate that near-future power needs justify new construction.
12 2) Demonstrate that recent upgrades are not sufficient and that further
13 upgrades cannot be added to existing power lines.
14 3) The project does not comply with “least-cost planning.”
15 4) Discuss need for the project, accounting for increased capacity from recent
16 Bonneville Power Administration projects.
17 5) Describe how the project interacts with the Boardman Coal Plant.

18 Comments Related to Siting Standards for Transmission Lines (OAR 345-024-
19 0090)

- 20 1) The project will result in human health impacts from electromagnetic
21 fields and magnetic flux.
22 2) Discuss existing studies on health effects from power lines.
23 3) Discuss electromagnetic effects and mitigation methods.
24 4) Evaluate project effects to digital farm equipment, radio reception,
25 television, and microwave communications.
26 5) Evaluate and offset effects to occupational health resulting from project-
27 related effects (e.g. static electricity).
28 6) Occupational workers have been shocked from equipment while working
29 near existing high voltage transmission lines in the area. Evaluate
30 potential increased effects from the project.

31 Other Issues of Concern

- 32 1) Disclose contributions to global climate change, including discussion of
33 adverse carbon storage effects resulting from clearing mature forests to
34 create the Project corridor.
35 2) Property value impacts are a concern to landowners.
36 3) Property rights should be considered in route selection (i.e. existing
37 corridors should be used, rather than private property).
38 4) Impacts to livelihood, including farm and timber practices (e.g. aerial
39 application, irrigation, crop burning) are a concern.

- 5) The project would impact operation of Breitenbush Hot Springs Resort and Conference Center, which provides jobs and financial support to Marion County.
- 6) Humans and their needs should carry as much weight as wildlife protection.
- 7) The project will impact planned development on private land.
- 8) Further project details are needed, including detailed maps and timelines.
- 9) Permission from landowners should be obtained prior to property access.
- 10) Describe oversight of contractors on private property, including post-construction maintenance on access roads and revegetation.
- 11) The preferred construction schedule is April through October.
- 12) Use of existing roads should be prioritized over construction of new roads.
- 13) Connector lines to/from proposed, expected, and/or foreseeable electricity generation sources should be included in a cumulative impacts analysis.
- 14) Discuss where potential new developments could be facilitated by the project, including potential renewable energy developments. Discuss the effects of these developments in a cumulative impacts analysis.
- 15) If the project requires height restrictions for farming equipment, will new equipment be provided to affected landowners?
- 16) Will loss of income and way of life be compensated?
- 17) The project will result in public safety impacts from fire hazards in the facility corridor.
- 18) To the extent practicable, the project should utilize only existing energy corridors.

(b) Reviewing Agency Comments

The Department received comments from numerous agencies identified as “reviewing agencies” under Council rules. Some reviewing agencies provided comment directly to the Department, others through the project website, and others directed their comments directly to the federal agencies for the NEPA process. A summary of reviewing agency comments that are applicable to issues under Council jurisdiction is presented below, regardless of how the comment was submitted. This summary is not intended to substitute for careful review of each comment from a reviewing agency. The applicant should address each specific concern detailed in the reviewing agency comments, either in the relevant application exhibit or in Exhibit BB. All of the reviewing agency comments have been provided under separate cover to the applicant and are incorporated by reference in this order. If specific contact information was provided, it is included below.

- 1) The contact at the City of Salem is Rick Scott, at 503-588-6178. The City delivered a letter of support for the project, assuming the applicant adheres to appropriate environmental regulations.

- 1 2) The contact at ODEQ is Mary Camarata at the Eugene Office, 541-687-
2 7435. ODEQ requested that facility components, roads, and staging areas
3 be sited to minimize impacts to surface waters. Based on information in
4 the application, ODEQ may require an individual NPDES permit rather
5 than a general 1200-C construction permit, due to the size and scope of the
6 proposed project.
- 7 3) The contact at DSL is Dan Cary, 503-986-5302. DSL holds title to the
8 beds and banks of the John Day River, and will require the applicant to
9 obtain an easement for the utility crossing of John Day River and any
10 other DSL-owned surface properties affected by the transmission line.
11 DSL also requests that every effort be made to locate roads, substations,
12 and transmission towers outside of wetlands or streams to minimize
13 impacts. DSL suggested that routing the line adjacent to existing lines,
14 wherever possible, would likely reduce impacts to habitats.
- 15 4) The contact at Gilliam County’s Planning Department is Susie Anderson,
16 541-384-2381. Gilliam County provided applicable substantive criteria
17 from its Comprehensive Plan and Zoning Ordinance.
- 18 5) The contact at Marion County’s Planning Division is David Epling, 503-
19 588-5038. Marion County noted applicable substantive criteria in its
20 comment letter, and requested PGE address specific environmental issues
21 in Marion County (e.g., Marion County Comprehensive Plan-designated
22 sensitive rivers and streams, fish and wildlife habitat, and big game
23 habitat) that may occur outside the Department’s analysis areas as defined
24 in this order. Marion County cautioned the applicant that areas of
25 sensitive streams, excessive slope, and 100-year flood plan may exist
26 within the site boundary, and the County may require a geological analysis
27 or additional information in the application to address these areas. The
28 County furthermore stated that for the project to be in compliance with the
29 Marion County Comprehensive Plan, the application must demonstrate
30 how appropriate criteria listed for use in each affected land use zone
31 would be met.
- 32 6) The contact at Morrow County’s Planning Department is Carla McLane,
33 541-922-4624. Morrow County provided applicable substantive criteria
34 from its Zoning Ordinance, Comprehensive Plan, and other applicable
35 plans.
- 36 7) The main point of contact coordinating district staff at ODFW is Jon
37 Germond at the Salem Headquarters Office, 503-947-6088. ODFW
38 provided comment on PGE’s Cascade Crossing NOI in a letter dated July
39 16, 2010.
- 40 ODFW provided applicable statutes, administrative rules, and policies
41 administered by ODFW that would pertain to siting a transmission facility.
42 More specifically, ODFW requested that PGE include in its application:

- 1 a. Maps showing the different vegetation classifications for the project
- 2 area.
- 3 b. Monitoring plan for the project that includes monitoring sensitive
- 4 wildlife areas during facility construction and operation.
- 5 c. Mitigation plan to address loss of habitat as a result of facility
- 6 construction.
- 7 d. Revegetation plan outlining how areas temporarily disturbed during
- 8 construction will be rehabilitated.
- 9 e. Wildlife salvage plan to prevent and minimize direct mortality to
- 10 wildlife, particularly those less mobile.
- 11 f. Consideration of habitat fragmentation and impacts to wildlife
- 12 movement patterns when evaluating habitat impacts.
- 13 g. Avoidance of all Oregon white oak habitat, native upland grassland
- 14 prairie, native wet prairie, and late-successional (old-growth) forest.
- 15 h. Discussion of potential impacts to wildlife and wildlife habitat, surface
- 16 water and groundwater use, stormwater and potential impacts to fish
- 17 and fish habitat, and cumulative impacts.
- 18 8) The contact at OPRD is Alex Phillips, 503-986-0631. OPRD advised the
- 19 applicant to site its transmission line in a manner that minimizes
- 20 disturbance of the natural beauty of State Scenic Waterways, and does not
- 21 impede OPRD’s planning efforts of bringing a more “park-like feel” to the
- 22 Oregon State Fairgrounds. Numerous state parks and other OPRD
- 23 properties were mentioned in OPRD’s comment letter, with particular
- 24 concerns regarding scenic views of the “wild landscape” and undisturbed
- 25 open space. OPRD requested that PGE include in its application:
 - 26 a. A careful and thorough study assessing the visibility of the proposed
 - 27 transmission towers from each of OPRD’s properties in or near the
 - 28 proposed study area (see Section VI for analysis areas defined in this
 - 29 order). Visual impacts analyses should include the transmission
 - 30 towers, lines, and substations.
 - 31 b. A noise analysis for all types of noise generated by transmission lines
 - 32 that could be heard in OPRD properties.
 - 33 c. A study of the light pollution from lighting of the towers, lines, and
 - 34 other project structures.
 - 35 d. In addition, the OPRD’s Oregon Historic Trail Advisory Council
 - 36 provided commentary expressing concern regarding physical
 - 37 destruction and view shed degradation of several historic trails along
 - 38 the proposed Cascade Crossing route. Leta Neiderheiser is the point of
 - 39 contact for the Oregon Historic Trail Advisory Council, 503-986-0681.
 - 40 The point of contact at OPRD for issues related to the Oregon Trail is
 - 41 David Brogan, 503-986-0671.
- 42 9) The contact for ODF is Russ Lane at the North Cascade District Office,
- 43 503-945-7414. ODF listed approval or permits for activities within forest
- 44 land.

- 1 10) The contact at Sherman County’s Planning office is Georgia Macnab, 541-
2 565-3601. Sherman County provided applicable substantive criteria from
3 its Zoning Ordinance, Comprehensive Plan, and Goal Five Inventory and
4 Analysis. Sherman County specifically requested that the application
5 include an Emergency Response Plan, Weed Control Plan, details about
6 Fire Suppression management, County Road Approach requirements for
7 any new access roads, and a County Road Management Plan.
- 8 11) The contact at SHPO within OPRD is Matt Diederich, 503-986-0577.
9 SHPO requested that PGE involve a qualified archaeologist in its cultural
10 resource survey for the project, due to the “very high likelihood” of
11 significant archaeological sites and buried human remains being present
12 within the proposed transmission corridors.
- 13 12) The project could result in impacts to recreational boaters. Stream
14 crossing structures should be constructed to allow adequate vertical
15 clearance. The applicant should consult with the Oregon State Marine
16 Board, which has developed a Minimum Channel Clearance Guidelines
17 document for recreational boating under ORS 830.110. The contact at
18 OMSB is Douglas Baer, 503-378-2603.

19 **VIII. USE OF INFORMATION DEVELOPED FOR THE ENVIRONMENTAL**
20 **IMPACT STATEMENT**

21 Pursuant to ORS 469.370(13), EFSC will review the application for site
22 certificate, to the extent feasible, in a manner that is consistent with and does not
23 duplicate USFS review under NEPA. This includes elimination of duplicative study and
24 reporting requirements and EFSC’s use of information (Draft and Final EIS) prepared for
25 the federal review.

26 Many EFSC standards and rules of other state agencies in Oregon require field
27 work to gather the information needed to demonstrate compliance. The Department is
28 working with state agencies and county planners to ensure that the field work required for
29 the site certificate application and for the NEPA review can be done concurrently and by
30 the applicant’s teams of field scientists. Technical reports describing the results of site
31 investigations for each resource area should be able to cover the requirements of both
32 NEPA and EFSC.

33 However, the NEPA requirements and EFSC standards are different, and
34 compliance with NEPA does not necessarily ensure compliance with an EFSC standard.
35 Some apparent differences between NEPA and EFSC requirements include:

- 36 • In addition to characterizing habitat, endangered species, wetland areas, and other
37 information required for the EIS, the application must address ODFW’s Fish and
38 Wildlife Habitat Mitigation Policy (OAR 635-415-0025) and meet the Council's
39 no-net-loss standards. The Department is not aware that NEPA requires no net
40 loss for high-quality habitat.
- 41 • It is not clear to what extent farm land and soils are protected in the NEPA
42 review. We assume the EIS will address erosion issues, but it is not clear that soil

1 productivity is addressed in NEPA adequately to meet the Council’s Soil Standard
2 and Land Use Standard.

- 3 • The level of geotechnical investigation required by the EFSC Structural Standard
4 may exceed NEPA requirements.
- 5 • Recreation may be addressed in the EIS but it is unclear as to whether the
6 information that will be provided in the EIS will be enough to meet the Council’s
7 “no significant adverse impact” standard.
- 8 • The Department understands that private land easements may not be acquired
9 until late in the EIS process, and biological/cultural resource studies may
10 therefore lag behind the NEPA process. However, the application must provide
11 evidence of compliance with EFSC standards for all lands, public and private.

12 For this reason, work plans for resource reports that support the NEPA EIS should
13 be written to ensure that one set of ground studies collects all the information needed for
14 both the EIS and the application for site certificate. Where mitigation is proposed, the
15 scientists drafting the mitigation plans should be made aware that it will be more efficient
16 if they propose a single mitigation plan that meets both federal and state requirements.
17 This may increase the scope of the resource reports and EIS, but it will avoid having to
18 write completely separate sets of studies and mitigation plans for the federal and state
19 reviews.

20 To the extent that the applicant will rely on the draft EIS for evidence of
21 compliance with EFSC standards, ODOE suggests development of a document that cross
22 references the information from the resource reports and the EIS with the information
23 that is understood to be needed for the EFSC application. This would help identify areas
24 where the NEPA process alone may not require enough information for a complete EFSC
25 application, so that the application can supply the needed additional information.
26 Regardless, ODOE will continue to stay engaged in the various interagency workgroups
27 that are working with the applicant and its contractors to develop resource survey
28 workplans that address the needs of both the federal and state agencies.

29 **IX. EXPIRATION DATE OF THE NOTICE OF INTENT**

30 In accordance with OAR 345-20-0060, the Cascade Crossing NOI expires on May
31 17, 2012, unless the applicant petitions the Council for an extension. If the applicant
32 does not submit an application for a site certificate before the expiration of the NOI, then
33 the applicant must submit a new NOI to satisfy ORS 469.330.

34 **X. PROJECT ORDER AMENDMENT AND APPLICATION** 35 **COMPLETENESS**

36 The Council or the Department may amend this project order at any time [ORS
37 469.330(4)]. Amendment may include changes to the analysis areas. To issue a site
38 certificate, the Council must determine that the proposed facility complies with Oregon
39 statutes and administrative rules identified in the project order, as amended, as applicable
40 to the issuance of a site certificate for the proposed facility [ORS 469.503(3)].

1 Under OAR 345-015-0190(4), when the Department determines the application
2 for a site certificate contains adequate information for the Council to make findings on all
3 applicable Council standards, the Department may find the application complete,
4 regardless of whether the application contains all information required under OAR 345-
5 021-0010. Notwithstanding a determination that an application for a site certificate is
6 complete, the Department may require additional information from the applicant if the
7 Department identifies a need for that information during its review of the application
8 [OAR 345-015-0190(7)].

9 **XI. APPLICABILITY AND DUTY TO COMPLY**

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

14
15 OREGON DEPARTMENT OF ENERGY

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18
19 Thomas M. Stoops [signed original on file]

20 Thomas M. Stoops, Administrator, Energy Siting Division
21 Oregon Department of Energy

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23 Date of Issuance: April 29, 2011
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