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OREGON DEPARTMENT OF ENERGY

Regarding Statutes, Administrative Rules,)
and Other Requirements Applicable to the)
Proposed CARTY GENERATING STATION)

PROJECT ORDER

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BACKGROUND

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On August 26, 2009, Portland General Electric Company (PGE) submitted to the Oregon Department of Energy (ODOE or the “Department”) a Notice of Intent (NOI) to file an application for a site certificate for a proposed natural gas combined-cycle energy generating plant. The proposed facility, named the Carty Generating Station, would be located within Morrow County about thirteen miles southwest of Boardman, Oregon, and as described in the NOI, would have a peak generating capacity of up to 900 megawatts (MW) of electrical power. The facility will require a site certificate from the Oregon Energy Facility Siting Council (EFSC or the “Council”).

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On September 4, 2009, the Department issued a public notice of the NOI to the EFSC mailing list and to adjacent property owners as defined at Oregon Administrative Rule (OAR) 345-020-0011(1)(f). The Department also published the notice on September 27, 2009, in the *East Oregonian* newspaper. The public notice included announcement of a public information meeting to be held September 29, 2009 in Boardman, Oregon, and requested public comments on the NOI by 5:00 p.m. October 8, 2009. Several persons attended the September 29 information meeting, but no parties present expressed an objection specific to the proposed facility. At the close of the comment period on October 8, 2009 the Department had not received any written comments from members of the public. Public comments are discussed further in Section VII.

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On or about September 4, 2009 PGE distributed the NOI to the reviewing agencies identified by the Department. In accordance with OAR 345-020-0040, the NOI was sent with a memorandum from the Department requesting comments from reviewing agencies no later than October 8, 2009. At the close of the comment period the Department had received comments from the Oregon Department of Agriculture, Oregon Department of Fish and Wildlife (ODFW), U.S. Fish and Wildlife Service (USFWS), and Morrow County. Comments received from reviewing agencies are also discussed in Section VII.

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The Department issues this project order in accordance with OAR 345-015-0160, which requires the Department to specify the state statutes, administrative rules, and local, state, and tribal permitting requirements applicable to the construction and operation of the proposed facility (see Sections I through V). This project order specifies the analysis areas for the proposed facility (Section VI) and discusses comments received by the Department from reviewing agencies and members of the public that address matters within the jurisdiction of the Council that the applicant shall consider and discuss in the application for a site certificate (Section VII). This project order also includes sections concerning the expiration date of the

1 Notice of Intent (Section VIII), discussion of project order amendments (Section IX) and the
2 applicant’s duty to comply with applicable requirements (Section X).

3 Oregon Revised Statute (ORS) 469.401(4) provides that a site certificate issued by the
4 Council does not govern certain matters. This project order does not consider matters outside the
5 Council's jurisdiction. The applicant must nevertheless comply with all statutes, regulations, and
6 local ordinances applicable to the proposed facility.

7 As provided in ORS 469.330(4), the Department or the Council may amend this project
8 order at any time. The definitions in ORS 469.300 and OAR 345-001-0010 apply to the terms
9 used in this project order, except where otherwise stated or where the context indicates
10 otherwise.

11 THEREFORE, pursuant to ORS 469.330(3) and OAR 345-015-0160(1), the Department
12 issues this project order establishing the requirements for a site certificate application for the
13 Carty Generating Station.

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15 PROPOSED FACILITY: CARTY GENERATING STATION
16 PROJECT ORDER
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30	I. Statutes, Administrative Rules, And Related Permit Requirements Applicable To The	
31	Proposed Facility	
32	This section identifies the Oregon statutes and administrative rules that PGE must address	
33	in the application, and related state and federal permits and approvals.	
34	(a) Energy Facility Siting Council	
35	Statute and Rule References: Statutes pertaining to the regulation of energy	
36	facilities, starting at ORS 469.300, and administrative rules in OAR Chapter 345,	
37	including the general provisions of Division 1 and the requirements of Divisions 21,	
38	22, 24, 26 and 27 (as discussed further below).	
39	Permit: An energy facility site certificate is required before construction or	
40	operation.	
41	Discussion:	
42	<u>OAR Chapter 345, Division 21 (Application for Site Certificate)</u>	
43	See Section V for a discussion of specific information to be included in the	
44	application per the requirements of OAR 345-021-0010.	

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

2 All general standards in OAR Chapter 345, Division 22, apply to the proposed
3 facility.

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

5 Specific standards addressed in OAR Chapter 345, Division 24, apply to the
6 proposed facility, including: Siting Standards for Transmission Lines (OAR 345-
7 024-0090); Standards for Energy Facilities That Emit Carbon Dioxide (OAR 345-
8 024-0500); Standard for Base Load Gas Plants (OAR 345-024-0550); Means of
9 Compliance for Base Load Gas Plants (OAR 345-024-0560); Monetary Offset Rate
10 (OAR 345-024-0580); Standard for Non-Base Load Power Plants (OAR 345-024-
11 0590); Means of Compliance for Non-Base Load Power Plants (OAR 345-024-
12 0600); Standard for Nongenerating Energy Facilities (OAR 345-024-0620); Means
13 of Compliance for Nongenerating Energy Facilities (OAR 345-024-0630);
14 Monetary Path Payment Requirement (OAR 345-024-0710); and Qualified
15 Organization (OAR 345-024-0720).

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

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

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

21 The site certificate will contain the mandatory conditions, applicable site-specific
22 conditions, and monitoring conditions described in OAR 345-027-0020, -0023 and -
23 0028.

24 **(b) Oregon Department of Agriculture, Plant Division — Native Plant**
25 **Conservation Program**

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

29 **Permit:** None required.

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

33 OAR 603-073-0070 contains the state list of endangered and threatened plant
34 species. OAR 603-073-0080 gives ODA the authority to designate candidate
35 plants. If PGE finds any state-listed threatened or endangered plant species that
36 may be affected by the proposed facility, PGE must address the requirements of
37 OAR 603-073-0090(5)(d)(A)-(E) in the application for a site certificate.

38 PGE should include in its application for a site certificate a list of both state- and
39 federally-listed endangered, threatened, and candidate plant species that have
40 potential to occur in the analysis area. PGE should identify these species based on a

1 review of literature, consultation with knowledgeable individuals, and reference to
2 the list of species maintained by the Oregon Natural Heritage Program.¹

3 PGE should include in its application for site certificate a description and the results
4 of a field survey for the listed plant species. The survey must be conducted by a
5 person with expertise in field botany, plant taxonomy and biological conservation.
6 The survey should be conducted during the time of year when it is possible to
7 identify any listed plants (usually when these plants are in flower or fruit). The
8 field survey report should include written descriptions of the survey methods and
9 areas surveyed. PGE should consult with the Oregon Department of Agriculture,
10 Native Plant Conservation Program, regarding field survey methods, appropriate
11 survey seasons, qualifications of field survey personnel, and the information to be
12 included in the field survey report.

13 **(c) Oregon Department of Environmental Quality — Air Quality Division**

14 **Statute and Rule References:** 40 CFR Part 72 (Acid Rain Permits Regulation);
15 ORS Chapters 468A (Air Quality); OAR Chapter 340, Division 216 (Air
16 Contaminant Discharge Permits); Division 218 (Oregon Title V Operating Permits;
17 Division 224 (Major New Source Review)

18 **Permits:** Air Contaminant Discharge Permit (ACDP), Prevention of Significant
19 Deterioration (PSD) Permit, Federal Operating Permit (Title V), and Acid Rain
20 Permit (Title IV)

21 **Discussion:** The air quality permit program is delegated by the US Environmental
22 Protection Agency to the Oregon Department of Environmental Quality (DEQ).
23 The Council does not have jurisdiction for determining compliance with the
24 applicable law. However, the Council may rely on the determinations of
25 compliance and the conditions in federally delegated permits in making its
26 determination about whether other standards and requirements under Council
27 jurisdiction are met. Under OAR 345-021-0000(7), the Department shall not find a
28 site certificate application complete unless the applicant has submitted one copy of
29 all of its federally delegated permit applications. In addition, as described in OAR
30 345-021-0000(7), before the Department may find the site certificate application
31 complete, PGE must submit to the Department a letter or other indication from
32 DEQ stating that DEQ has received the permit applications from PGE, identifying
33 any additional information DEQ is likely to need from PGE based on DEQ's review
34 of the application as submitted, and estimating the date when DEQ will complete its
35 review and issue its permit decision. This condition applies to the ACDP and PSD
36 permit. PGE must submit the Title V Federal Operating Permit and Acid Rain
37 Permit applications to DEQ within one year after the facility begins operation.

¹ 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 **(d) Oregon Department of Environmental Quality — Water Quality Division**

2 **Statute and Rule References:** ORS Chapter 468B (Water Quality); OAR Chapter
3 340, Divisions 40 (Groundwater Quality Protection), 45 (Regulations Pertaining To
4 NPDES and WPCF Permits), 48 (Certification of Compliance with Water Quality
5 Requirements and Standards), and 71 (Onsite Wastewater Treatment Systems).

6 **Permits:** National Pollutant Discharge Elimination System (NPDES), Section 401
7 Water Quality Certification, Water Pollution Control Facilities (WPCF), and onsite
8 wastewater system permits.

9 **Discussion:**

10 OAR Chapter 340, Division 45 (NPDES and WPCF Permits)

11 In accordance with OAR 345-021-0000(7), PGE must submit to the Department
12 one copy of all applications for federally-delegated permits (including NPDES
13 permits). The applicant must also provide a letter or other indication from the
14 Oregon Department of Environmental Quality (DEQ) stating that the agency has
15 received a permit application from the applicant, identifying any additional
16 information the agency is likely to need from the applicant based on the agency’s
17 review of the application as submitted, and estimating the date when the agency
18 will complete its review and issue a permit decision.

19 The U.S. Environmental Protection Agency has delegated authority to DEQ to issue
20 NPDES Storm Water Discharge permits for construction and operation activities.
21 The Council does not have jurisdiction over the federally-delegated NPDES permit,
22 but the Council may rely on the determinations of compliance and the conditions in
23 the federally-delegated permit in making its determination about whether other
24 standards and requirements under the Council’s jurisdiction are met.

25 If a WPCF permit is required for a process wastewater evaporation pond, it is a
26 state permit that is under Council jurisdiction. Regulations pertaining to WPCF
27 permits are in OAR Chapter 340, Division 45. PGE must include in the application
28 for a site certificate all information that would otherwise be required by DEQ in an
29 application for the permit. The WPCF permit application must include data and
30 calculations used to determine the most efficient size and location of a process
31 wastewater evaporation pond.

32 OAR Chapter 340, Division 48 (Certification of Compliance with Water Quality
33 Requirements and Standards)

34 If a Section 404 Permit is needed from U.S. Army Corps of Engineers for the
35 discharge of dredge or fill material in Oregon’s waters, a Section 401 Water Quality
36 Certification must be granted by DEQ before a Section 404 permit may be issued. If
37 a Section 401 Water Quality Certification is required, it is a state permit under
38 Council jurisdiction. PGE must include in the application for a site certificate an
39 itemized demonstration of each applicable provision in OAR 340-048-0020. If the
40 certification is needed, the Council will make the issuing decision in consultation
41 with the DEQ.

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

2 The NOI states that the proposed plant will discharge sewage to the existing
3 Boardman Plant sanitary waste treatment system. In the application for a site
4 certificate, PGE should provide information demonstrating that the volume of
5 wastewater discharge requiring treatment that is estimated for the Carty Generating
6 Station is within the current excess capacity of the Boardman sanitary waste
7 system.

8 **(e) Oregon Department of Environmental Quality – Land Quality Division**

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

12 **Permit:** None required.

13 **Discussion:** PGE must include in the application a list of all hazardous materials
14 that potentially would be stored or used at the facility site during construction and
15 operation. PGE must comply with DEQ regulations concerning the use of
16 hazardous materials and the clean up and disposal of hazardous wastes. The
17 requirement is incorporated in the general standard of review, OAR 345-022-0000.

18 The DEQ hazardous waste program implements requirements of the U.S.
19 Environmental Protection Agency (EPA) and is a federally-delegated program.
20 However, information on hazardous materials use and storage is important in
21 determining the potential for spills that could adversely affect soils and potentially
22 affect the cost and success of site restoration. A complete application would
23 include sufficient information on plans and programs for storage of hazardous
24 materials and management of hazardous waste for DEQ to comment on their
25 adequacy.

26 **(f) Oregon Department of Environmental Quality — Noise Control Regulations**

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

29 **Permit:** None required

30 **Discussion:** The proposed facility must comply with the noise control regulations.
31 The requirement is incorporated in the general standard of review, OAR 345-022-
32 0000.

33 PGE shall include a noise analysis in the application for a site certificate. The
34 analysis must contain information to support a finding by the Council that the
35 proposed facility would comply with the requirements of OAR 340-035-0035.

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

37 **Statute and Rule References:** ORS Chapter 496 (Application, Administration and
38 Enforcement of Wildlife Laws); ORS Chapter 498 (ORS 498.301 through
39 498.346—Screening and By-pass Devices for Water Diversions or Obstructions);
40 ORS Chapter 506 (ORS 506.036—Protection and Propagation of Fish and ORS

1 506.109—Food Fish Management Policy); ORS Chapter 509 (ORS 509.140—
2 Placing Explosives in Waters and ORS 509.580 through 509.910—related to Fish
3 Passage); and OAR Chapter 635, Division 100 (Wildlife Diversity Plan) and
4 Division 415 (Fish and Wildlife Habitat Mitigation Policy).

5 **Permit:** None required

6 **Discussion:**

7 OAR Chapter 635, Division 100 (Wildlife Diversity Plan)

8 The Oregon Department of Fish and Wildlife (ODFW) provides technical review
9 and recommendations on compliance with Council standards. ODFW will base its
10 review and recommendations on state wildlife policy and threatened and
11 endangered species policy (Application, Administration and Enforcement of
12 Wildlife Laws, see ORS 496.012 and ORS 496.171 - 192).

13 OAR Chapter 635, Division 100, provides authority for adoption of the state
14 sensitive species list and the Wildlife Diversity Plan and contains the State list of
15 threatened and endangered wildlife species. PGE should include in its application
16 for a site certificate a list of both state-listed and federally-listed threatened and
17 endangered wildlife species and State Sensitive Species that have potential to occur
18 in the analysis area. PGE should identify these species based on a review of
19 literature, consultation with knowledgeable individuals, and reference to the list of
20 species published by the Oregon Natural Heritage Information Center.

21 PGE should include in its application a description and the results of a field survey
22 for the listed wildlife species performed by qualified survey personnel during the
23 season or seasons appropriate to the detection of these species. The field survey
24 report should include written descriptions of the survey methods and areas
25 surveyed. PGE should consult with ODFW regarding field survey methods,
26 appropriate survey seasons and qualifications of field survey personnel.

27 OAR Chapter 635, Division 415 (Fish and Wildlife Habitat Mitigation Policy)

28 OAR Chapter 635, Division 415, classifies six habitat categories and establishes a
29 mitigation goal for each category. PGE must identify the appropriate habitat
30 category for all areas affected by the proposed facility and provide the basis for
31 each category designation. The application should identify any impacts that project
32 construction and operation will have on fish and wildlife habitat quality and
33 quantity, and describe the actions that will be taken to mitigate for these impacts,
34 consistent with the goals of the Mitigation Policy. These actions may include
35 avoiding certain habitat areas, limiting the timing of construction to avoid sensitive
36 time periods for wildlife, or compensation for unavoidable losses. The application
37 should also describe how mitigation actions would be monitored and evaluated to
38 ensure the success of mitigation.

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

40 **Statute and Rule References:** OAR 345-022-0020

41 **Permit:** None required.

1 **Discussion:** The Department of Geology and Mineral Industries (DOGAMI)
2 provides technical review and recommendations on compliance with the Council’s
3 structural standard, OAR 345-022-0020. In its application, PGE must include a
4 geotechnical report that includes, as a minimum, the information required by OAR
5 345-021-0010(1)(h). Also relevant is the information required by OAR 345-021-
6 0010(1)(i). (See Section V of this project order for additional discussion
7 concerning application requirements.)

8 **(i) Oregon Parks and Recreation Department**

9 **Statute and Rule References:** ORS 97.740 - 760(Indian Graves and Protected
10 Objects); ORS 358.905 - 961 (Archaeological Objects and Sites); ORS 390.010
11 (Outdoor Recreation); ORS 390.235 (Archaeological Sites and Historical Material);
12 and OAR Chapter 736, Division 51 (Archaeological Permits).

13 **Permit:** An archaeological permit may be required to conduct archaeological
14 investigations of the site.

15 **Discussion:** The Oregon Parks and Recreation Department provides technical
16 review and recommendations on compliance with Council standards.

17 The State Historic Preservation Office (SHPO) within the Oregon Parks and
18 Recreation Department provides technical review and recommendations in
19 reference to the Council’s Historic, Cultural and Archaeological Resources
20 Standard (OAR 345-022-0090). The application for a site certificate should include
21 an archaeological and cultural survey conducted by a qualified archaeologist. PGE
22 should work as early as possible with SHPO to ensure that PGE provides required
23 information in SHPO’s preferred formats.

24 **NOTE:** Information concerning the location of archaeological sites or objects may be exempt
25 from public disclosure under ORS 192.501(11). Specific location information should not be
26 included in the text of application for a site certificate. Such information, including
27 archaeological survey reports, should be provided separately only after consultation with the
28 Department.

29 **(j) Oregon Department of State Lands — Removal-Fill Authorizations**

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

34 **Permit:** A removal-fill permit is required if any removal or fill activities occur in
35 streams designated as Essential Indigenous Anadromous Salmonid Habitat (ESH)
36 or 50 cubic yards or more of material is removed, filled or altered within a
37 jurisdictional water of the State [OAR 141-085-0520(2) and (4)].

1 **Discussion:** In Oregon, the removal fill permit is issued by the Department of State
2 Lands (DSL) separately from the 404 permit issued by the U.S. Army Corps of
3 Engineers. DSL will review a joint permit application (JPA) for compliance with
4 DSL wetland mitigation requirements. Note that in some cases the DSL wetland
5 mitigation success criteria may differ from and exceed those of the Corps.

6 PGE should include information in the application for a site certificate to support a
7 finding on whether a removal-fill permit is needed. PGE should consult with the
8 Department of State Lands and obtain its concurrence, which may require a formal
9 delineation of wetlands and waters of the State within the site boundary. If a
10 removal-fill permit is needed, the application must include an itemized
11 demonstration of each applicable provision of ORS 196.825 (Criteria for Issuance
12 of a Permit) and OAR 141-085-0550 (Application Requirements for All
13 Authorizations). If the permit is needed, the Council will make the issuing decision
14 in consultation with the Department of State Lands.

15 **(k) Oregon Water Resources Department — Water Rights/Adjudications Division**

16 **Statute and Rule References:** ORS Chapters 536 through 540 (Water
17 Resources/Water Rights); and OAR Chapter 690 (Water Resources Department).

18 **Permit:** Water right.

19 **Discussion:** The NOI states that PGE would need to obtain a secondary water right
20 authorizing use of stored water from the Carty Reservoir for the portion of the
21 stored water to be utilized at the Carty Generating Station.

22 PGE should include information in the application for a site certificate to support a
23 finding of whether a water right is or is not required. The application for a site
24 certificate must identify the sources of water to be used by the proposed facility
25 during construction and operation, the water right under which the water would be
26 provided, the quantity of water needed, and the means of disposal of all water
27 discharges from the proposed facility.

28 If a new water right or water right transfer is required, the application for a site
29 certificate must include information to support a finding for issuance of a
30 groundwater or surface water permit under ORS Chapter 537 (Appropriation of
31 Water Generally) or transfer of a water use under ORS Chapter 540 (Transfer or
32 Forfeiture of Water Rights), including a discussion and evaluation of all relevant
33 factors, including those factors listed in ORS 537.153(2) and (3), ORS 537.170(8)
34 and OAR Chapter 690, Divisions 310 (Water Right Application Processing) and
35 380 (Water Right Transfers). If a permit or transfer is needed, the Council will
36 make the issuing decision in consultation with the Oregon Water Resources
37 Department.

38 **(l) U.S. Army Corps of Engineers**

39 **Statute and Rule References:** OAR 345-048-0032

40 **Permit:** Section 404 Permit is required for the discharge of dredged or fill material
41 in Oregon's waters.

1 **Discussion:** If the project requires any dredge or fill of water bodies, PGE must
2 submit to the Department one copy of an application for a federally-delegated
3 Section 404 permit, in accordance with OAR 345-021-0000(7). The DSL
4 (removal-fill permit) and the U.S Army Corps of Engineers (Corps) (Section 404
5 permit) use a joint application form. The applicant must also provide a letter or
6 other indication from the Corps stating that the agency has received a permit
7 application from the applicant, identifying any additional information the agency is
8 likely to need from the applicant based on the agency’s review of the application as
9 submitted, and estimating the date when the agency will complete its review and
10 issue a permit decision.

11 The Council does not have jurisdiction over the federally-delegated Section 404
12 permit, but the Council may rely on the determinations of compliance and the
13 conditions in the federally-delegated permit in making its determination about
14 whether other standards and requirements under the Council’s jurisdiction are met.

15 **II. NATIVE AMERICAN TRIBES**

16 **Statute and Rule References:** Not applicable

17 **Permit:** None

18 **Discussion:** The application for a site certificate should include evidence of consultation
19 with affected tribes, including the Confederated Tribes of the Umatilla Indian
20 Reservation, the Confederated Tribes of Warm Springs, the Confederated Tribes and
21 Bands of the Yakama Indian Nation, and the Nez Perce Tribe regarding archaeological
22 and cultural sites and materials within the site boundary. The affected tribes provide
23 technical review and recommendations in reference to the Council’s Historic, Cultural
24 and Archaeological Resources Standard (OAR 345-022-0090).

25 **III. APPLICABLE LOCAL GOVERNMENT ORDINANCES**

26 **Statute and Rule References:** Applicable substantive criteria from the Morrow and
27 Gilliam County code and comprehensive plan.

28 **Permit:** Conditional Use Permits.

29 **Discussion:** In the NOI, PGE states that it intends to request a Council determination
30 regarding land use in accordance with ORS 469.504(1)(b). The proposed site is within
31 Morrow and Gilliam County. The Council must consider the applicable substantive
32 criteria from both these counties. On June 12, 2009 the Council appointed Morrow
33 County as a Special Advisory Group, as required under ORS 469.480.² The applicable
34 substantive criteria are those in effect on the date the preliminary application is
35 submitted, as defined by ORS 469.504(1)(b)(A). In addition, the application must
36 identify any Land Conservation and Development Commission administrative rules and
37 goals and any land use statutes that are not implemented in the Morrow or Gilliam

² On November 20, 2009 the Council will consider and take action on a Department recommendation to also appoint Gilliam County as a Special Advisory Group for the Carty Generating Station project.

1 County’s comprehensive plans and are therefore directly applicable to the facility under
2 ORS 197.646. The applicant should demonstrate how the proposed facility would
3 comply with OAR 660-033-0130(37), if applicable.

4 The application should discuss each land use ordinance and comprehensive plan policy
5 that contains substantive criteria and should demonstrate how the proposed facility
6 complies with those criteria. If the proposed facility does not comply with one or more
7 of the criteria, the applicant must demonstrate how the proposed facility complies with
8 the applicable statewide planning goal. If the proposed facility does not comply with the
9 goal, the applicant must demonstrate that an exception is justified under ORS 469.504(2).

10 PGE should contact the Morrow County Planning Department and the Gilliam County
11 Planning Department to discuss the requirements for conditional use permits. In the
12 application for a site certificate, PGE should include information necessary to
13 demonstrate compliance with the substantive criteria from the Morrow and Gilliam
14 County codes and comprehensive plans that are applicable to issuance of the permits. As
15 provided in ORS 469.401(3), if the Council issues a site certificate, the County will be
16 bound to issue the conditional use permits, subject only to the conditions set forth in the
17 site certificate.

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

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

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

23 OAR 345-021-0000 (General Requirements)

24 All requirements apply. PGE must submit the information required by OAR 345-021-
25 0000, particularly the information in sections (6) and (7) regarding the status of non-
26 federally-delegated and federally delegated permits.

27 OAR 345-021-0010 (Contents of an Application)

28 The application for a site certificate should include the information described in OAR
29 345-021-0010(1), which requires the applicant to include in its application the
30 information necessary to address each provision of the rules identified in this project
31 order, as well as the information from 345-021-0010(2) and (3). Each of the paragraphs
32 below indicates which provision(s) of OAR 345-021-0010(1)(a) – (dd) will apply to the
33 Carty Generating Station.

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

35 Paragraphs (A) through (D) apply. Note that paragraph (B) calls for a list of
36 “participating persons, other than individuals.” “Person” is defined in OAR 345-
37 001-0010(45). Include in the application information about all third-party entities
38 (persons other than individuals) that are important to the facility.

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

2 All paragraphs apply except (A)(vii) and (viii). Paragraph (D) applies only if the
3 transmission line associated with the Carty Generating Station meets the
4 definition of an energy facility per ORS 469.300.

5 PGE must include a physical description and description of the location of all
6 components of the facility including, but not limited to, turbine generator
7 buildings, outdoor heat recovery steam generators, cooling towers, water
8 treatment building, water tanks, control and administration building, retention or
9 evaporation ponds, generators, auxiliary transformers, switchyard, access roads,
10 road modifications, transmission lines, and interconnection facilities. PGE must
11 describe any improvement or modification of existing structures, including roads.

12 The applicant should note the additional information required by OAR 345-021-
13 0010(1)(b)(D)(i) – (viii) if the Carty Generating Station transmission line exceeds
14 10 miles in length and crosses more than one jurisdiction.

15 **(c) Exhibit C – Location**

16 Maps included in Exhibit C should provide enough information for property
17 owners potentially affected by the facility to determine whether their property is
18 within or adjacent to the site. Major roads should be named. The application for
19 a site certificate should include identification of lands enrolled in the
20 Conservation Reserve Program and lands currently used for commercial
21 agriculture. PGE should include maps drawn to a scale of 1 inch = 2,000 feet
22 when necessary to show detail. Maps should indicate the “site boundary” as
23 defined in OAR 345-001-0010(53).

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

25 All paragraphs apply.

26 **(e) Exhibit E – Permits**

27 All paragraphs apply.

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

29 The NOI states that the facility corridors are located outside of the urban growth
30 boundary within zoned farmland. Accordingly, the distance in paragraph (C)
31 applies (500 feet from the site boundary).

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

33 All paragraphs apply. See discussion in Section I.D (Oregon Department of
34 Environmental Quality) of this project order regarding the importance of listing
35 hazardous materials used and stored at the facility, or at temporary access and
36 laydown areas. ODOE also uses the materials analysis to identify any hazardous
37 materials whose storage could affect site restoration.

1 PGE must identify any chemicals that may be used in the cooling towers and/or in
2 the process wastewater evaporation ponds. If a solid precipitate is created or if
3 any other liquids or solids requiring disposal will accumulate (such as in the
4 evaporation ponds, or material generated during maintenance activities), PGE
5 must provide information concerning the storage, treatment, and/or disposal of the
6 material. If PGE plans to send waste materials offsite to a licensed facility for
7 treatment and/or disposal the application must describe the method that will be
8 used to demonstrate that the material will not pose a threat to human health and
9 the environment during storage or transport.

10 **(h) Exhibit H – Geology**

11 All paragraphs apply except (E).

12 The application should include all results of field and laboratory investigations
13 and any other geotechnical and geologic hazard site evaluations that have been
14 conducted. A thorough ground shaking amplification, liquefaction, and lateral
15 spread analysis with all of the calculations, methodologies, and recommendations
16 based on this site-specific analysis will be required.

17 **NOTE:** OAR 345-021-0010(1)(h), paragraphs (A), (F)(i), and (F)(iv), each contain
18 references to potentially outdated guidelines and codes. The applicant should consult directly
19 with the Oregon Department of Geology and Mineral Industries regarding the most current
20 standards the applicant should use in preparing information for the site certificate application.
21 The application should note the codes and guidelines used to prepare information in Exhibit H
22 and provide an explanation if any are different from those cited in the Council’s rules.

23 **(i) Exhibit I – Soils**

24 All paragraphs apply.

25 PGE should include information describing the impact of construction and
26 operation of the proposed facility on soil productivity in farm zones. Describe all
27 measures proposed to maintain soil productivity during construction and
28 operation. PGE should consult with local farmers, landowners, and soil
29 conservation districts regarding mitigation of impacts to farmland. Erosion
30 control should also be emphasized on forestland (if any are impacted) to
31 minimize/mitigate damage to forest soils and streams.

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

33 All paragraphs apply.

34 **NOTE:** OAR Chapter 141, Division 85 (“Administrative Rules Governing the Issuance and
35 Enforcement of Removal-Fill Authorizations Within Waters of Oregon Including Wetlands”) was recently revised. The citations in OAR 345-021-0010(1)(j) to rules in Division 85 of
36 OAR Chapter 141 are no longer valid. For example, reference to OAR 141-085-0010 should
37 now be 141-085-0510 (Definitions). The citation to OAR 141-085-0018 should now be to
38 OAR 141-085-0520. The applicant should consult directly with the Oregon Department of
39 State Lands if there are any questions regarding the applicable regulations.
40

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

2 The NOI states that PGE will obtain a Council determination of compliance with
3 Morrow and Gilliam County’s land use laws and regulations under ORS
4 469.504(1)(b). PGE may change this election, but the election is final when the
5 application is submitted.

6 Paragraphs (A) and (C) apply. Paragraphs (B) and (D) do not apply.

7 The application for a site certificate should include a discussion of whether the
8 proposed facility, including its related collection and transmission lines, would be
9 compatible with farm use, would not seriously interfere with accepted farm
10 practices, and would not significantly increase the cost of accepted farm practices.

11 **(l) Exhibit L – Protected Areas**

12 All paragraphs apply.

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

14 All paragraphs apply.

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

16 Exhibit N does not apply.

17 **(o) Exhibit O – Water Use**

18 All paragraphs apply.

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

20 All paragraphs apply.

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

22 All paragraphs apply.

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

24 All paragraphs apply. Include visual depictions of the project’s impact on scenic
25 resources within the analysis area, if visual depictions are available.

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

27 All paragraphs apply.

28 **(t) Exhibit T – Recreation**

29 All paragraphs apply.

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

31 All paragraphs apply. Include an analysis of estimated facility-related traffic
32 during construction and operation and the potential impact on traffic safety.

1 Discuss transportation of heavy equipment and shipments of facility components
2 during construction, including proposed transportation routes, anticipated traffic
3 volume and potential damage to public roads.

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

5 All paragraphs apply.

6 Include in this exhibit information about obtaining a hazardous waste
7 determination for excavated soils.

8 The application must also include data and calculations used to determine the
9 most efficient size and location of the land application area, i.e., land application
10 area that will achieve the purpose of disposing of process wastewater giving due
11 consideration to conservation of land, soil and protection of surface and
12 groundwater resources. The application must include data and calculations used to
13 determine the most efficient size of any process wastewater evaporation pond,
14 i.e., pond size that will achieve the purpose of disposing of process wastewater
15 giving due consideration to conservation of the water resource, including a
16 description of precipitate or other solid waste that would be generated by
17 operation of a process wastewater evaporation pond.

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

19 All paragraphs apply. Explain and justify the methodology used to estimate
20 retirement costs.

21 **(x) Exhibit X – Noise**

22 All paragraphs apply. The application for a site certificate should include
23 documentation of any waivers that PGE needs if the predicted noise levels at an
24 affected property exceed the ambient degradation standard.

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

26 All paragraphs apply.

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

28 All paragraphs apply.

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

30 All paragraphs apply to any transmission line, regardless of size, that is a related
31 or supporting facility, including collector lines.

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

33 Any information requested in this project order that is not addressed in any other
34 exhibit.

1 **(cc) Exhibit CC – Other Law**

2 Exhibit CC applies.

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

4 Paragraph (C) applies. Per Section I(a) of this project order, the applicant should
5 include in Exhibit DD information to support findings by the Council that the
6 proposed facility complies with the Siting Standards for Transmission Lines
7 (OAR 345-024-0090).

8
9 **VI. ANALYSIS AREAS FOR THE PROPOSED FACILITY**

10 The analysis areas are the minimum areas that PGE must study for potential impacts from
11 the construction and operation of the proposed facility. The analysis areas described in
12 this project order do not limit the applicant’s responsibility to assess the potential impacts
13 of the facility. They are the areas in which significant adverse impacts from the proposed
14 facility are likely to occur. If significant impacts could occur beyond the analysis areas
15 described here, then PGE must assess those impacts in the application for a site certificate
16 and show how the facility would comply with the applicable standard with regard to the
17 larger area where impacts could occur.

18 For all potential impacts, the analysis area includes all the area within the site boundary.
19 In addition to the definition of “site boundary” in OAR 345-001-0010(53), the site
20 boundary includes temporary laydown and staging areas, turn-around areas and
21 equipment crane transport corridors (if required). In its application for a site certificate,
22 PGE must describe the site boundary and provide a map showing the proposed site
23 boundary.

24 The analysis areas are included in the following table:

Affected Standard or Resource	Exhibit	Analysis Area
Structural Standard	Exh. H	The area within the site boundary, notwithstanding the distances related to an assessment of seismic hazards required by OAR 345-021-0010(1)(h).
Soils	Exh. I	The area within the site boundary.
Wetlands	Exh. J	The area within the site boundary, and wetland areas hydrologically connected to wetlands within the site boundary.
Land Use	Exh. K	The area within the site boundary and one-half mile from the site boundary.
Protected Areas	Exh. L	The area within the site boundary and 20 miles from the site boundary.
Fish and Wildlife Habitat	Exh. P	The area within the site boundary and within one-half mile from all ground disturbing activities anticipated during construction, unless otherwise described in an ODFW- and ODOE-approved protocol.

Affected Standard or Resource	Exhibit	Analysis Area
Threatened and Endangered Species	Exh. Q	The area within the site boundary and 5 miles from the site boundary.
Scenic and Aesthetic Values	Exh. R	The area within the site boundary and 10 miles from the site boundary.
Historic, Cultural and Archaeological Resources	Exh. S	The area within the site boundary.
Recreational Opportunities	Exh. T	The area within the site boundary and 5 miles from the site boundary.
Public Services	Exh. U	The area within the site boundary and 10 miles from the site boundary, except that the application should also include an evaluation of impacts to the nearest health care facilities, which are in the city of Hermiston (approximately 25 miles away).

2 VII. COMMENTS FROM REVIEWING AGENCIES AND THE PUBLIC

3 (a) Public Comments

4 In addition to the applicable statutes, rules, and land use requirements listed in
5 this Project Order, the application must address issues arising from public comments
6 following the informational meeting on the NOI (OAR 345-015-0130). However, at the
7 close of the NOI comment period on October 8, 2009 the Department had not received
8 any written comments from members of the public, nor did any member of the public
9 express specific concerns about the facility at the informational meeting held on
10 September 29, 2009.

11 (b) Reviewing Agency and Other Comments

12 The Department has received comments on the Carty Generating Station NOI
13 from the Oregon Department of Agriculture, Oregon Department of Fish and Wildlife
14 (ODFW), U.S. Fish and Wildlife Service (USFWS), and the Morrow County Planning
15 Department. These comments have been sent to PGE for their consideration in
16 development of a preliminary application for site certificate, as required by OAR 345-
17 015-0140. PGE should conduct an in-depth review of agency comments and work
18 closely with each commenting agency prior to the submittal of the preliminary
19 application. The application must include sufficient information for the Council to
20 determine the adequacy of the applicant's response to significant comments from
21 reviewing agencies.
22

1 **VIII. EXPIRATION DATE OF THE NOTICE OF INTENT**

2 In accordance with OAR 345-20-0060, the Carty Generating Station NOI expires on
3 August 26, 2011, unless PGE petitions the Council for an extension. If PGE does not submit an
4 application for a site certificate before the expiration of the NOI, then PGE must submit a new
5 NOI to satisfy ORS 469.330.

6
7 **IX. PROJECT ORDER AMENDMENT AND APPLICATION COMPLETENESS**

8 The Council or the Department may amend this project order at any time [ORS
9 469.330(4)]. Amendment may include changes to the analysis areas. To issue a site certificate,
10 the Council must determine that the proposed facility complies with Oregon statutes and
11 administrative rules identified in the project order, as amended, as applicable to the issuance of a
12 site certificate for the proposed facility [ORS 469.503(3)].

13 Under OAR 345-015-0190(5), when the Department determines the application for a site
14 certificate contains adequate information for the Council to make findings on all applicable
15 Council standards, the Department may find the application for a site certificate complete,
16 regardless of whether the application for a site certificate contains all information required under
17 OAR 345-021-0000 and OAR 345-021-0010. Notwithstanding a determination that an
18 application for a site certificate is complete, the Department may require additional information
19 from the applicant if the Department identifies a need for that information during its review of
20 the application for a site certificate [OAR 345-015-0190(9)].

21
22 **X. APPLICABILITY AND DUTY TO COMPLY**

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

26 **OREGON DEPARTMENT OF ENERGY**

27
28
29 *[Original Signed]*

30
31 _____
32 Thomas M. Stoops, Siting Manager
33 Oregon Department of Energy

34 Date of Issuance: November 3, 2009