

BEFORE THE ENERGY FACILITY SITING COUNCIL

In the Matter of a Request for )  
Exemption from Energy Facility Site )  
Certificate requirements for the )  
Oregon Ethanol LLC Facility ) ORDER GRANTING EXEMPTION  
proposed by Greenstock Resources, )  
Inc. )

On December 13, 2005, Greenstock Resources Inc. (Greenstock) submitted an application for exemption from requirements to obtain an Energy Facility Site Certificate for a proposed ethanol production facility located at the Port of Morrow in Boardman, Oregon. The refinery will receive corn for conversion into ethanol as well as hominy feed, unrefined corn oil and other food related co-products. The ethanol will be intended for use as fuel. The applicant, Greenstock, is based in Shawnee, Kansas.

Applicable Regulations

The definition of “Energy facility” at ORS 469.300(11)(a) includes:

(G) A plant which converts biomass to a gas, liquid or solid product, or combination of such products, intended to be used as a fuel and if any one of such products is capable of being burned to produce the equivalent of six billion Btu of heat a day.

The Oregon Ethanol LLC facility will be designed to produce 30 million gallons of fuel-grade ethanol per year. This is equivalent to approximately 6.2 billion BTU/day (LHV) or 6.9 billion BTU/day (HHV). Therefore, the facility is an “energy facility” under ORS 469.300(11)(a).

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

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

## Review of Exemption Request

The Council has reviewed Greenstock's request under its rules at OAR 345-015-0370.

On January 3, 2006, the Oregon Department of Energy (ODOE) determined that the exemption request met the content and format described at OAR 345-015-0370(7). ODOE deemed the exemption request complete, and issued notice of filing to Greenstock and to the Council's general mailing list.

The Council considered staff's recommended findings regarding this exemption request at a meeting in Pendleton, Oregon on January 20, 2006.

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

### Compliance with Exemption Criteria

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

- (A) Uses biomass exclusively from grain, whey or potatoes as the source of material for conversion to a liquid fuel;

Greenstock states that the facility will receive corn as feedstock for conversion into fuel grade ethanol and various food products. Therefore, the Council finds that criterion (A) is met.

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

The exemption request includes a letter of November 28, 2005 from Carla McLane, Morrow County Planning Director. The letter states that the ethanol facility is an outright permitted use in the Port Industrial Zone, where the facility is proposed.

On January 3, 2006, ODOE contacted the Morrow County Planning Department and confirmed that Morrow County's comprehensive land use plan is acknowledged by LCDC and that no statewide planning goals or rules apply directly to the facility under ORS 197.464.

The November 28, 2005 letter from Carla McLane points out that Greenstock must still obtain the required zoning permit and building permits and must still go through county site plan review prior to construction. However, the zoning permit, building permits and site plan review are not considered to be the land use approvals required in criterion (B) of ORS 469.320(2)(f). The county planning director's determination that the facility is an outright permitted use is sufficient to meet the exemption criterion. The Council therefore finds that criterion (B) is met.

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

The exemption request includes a letter from Umatilla Electric Coop, noting that the facility's expected load is approximately 7,000 kW. Greenstock proposes to generate approximately 2,000 kW using extraction steam from onsite boilers. Umatilla Electric Coop states that it can meet the load without constructing any transmission lines that would require an EFSC site certificate.

The onsite boilers would use wood waste as fuel. The facility will not use natural gas.

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

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

Greenstock certifies that it will ship at least 90% of its ethanol output by rail or barge. The exemption request includes letters from Tidewater Barge Co. and the Port of Morrow, confirming that adequate rail and barge capacity is available. Therefore, the Council finds that criterion (D) is met.

#### Conclusion

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

The Council determines that the proposed Oregon Ethanol LLC ethanol facility, as described in the exemption request submitted by Greenstock Resources Inc. on December 13, 2005, is exempt from its jurisdiction pursuant to ORS 469.320(2)(f).

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Hans Neukomm, Chair  
Energy Facility Siting Council

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date

#### Notice of Right to Appeal

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