

1                                   **BEFORE THE ENERGY FACILITY SITING COUNCIL**  
2                                   **OF THE STATE OF OREGON**

3  
4   IN THE MATTER OF THE SITE CERTIFICATE FOR            )  
5   THE PORT WESTWARD GENERATING PROJECT            )        FINAL ORDER  
6   REQUEST FOR AMENDMENT NO. THREE                 )

7  
8   **Summary**

9   The Energy Facility Siting Council (“Council”) approves this amendment request.

10  
11   **I. Summary and Background of the Request for Amendment**

12   On November 3, 2004, Portland General Electric Company (“PGE” or the “Certificate  
13   Holder”) submitted to the Council its Request for Third Amendment to the Site Certificate  
14   for the Port Westward Generating Project (“PWGP” or the “Project”). The principal  
15   modifications that PGE requested are:

- 16  
17       (1)   changes to the electrical transmission line alignment along Heath Road  
18            adjacent to the Allston Substation, in an area south of the Allston  
19            Substation, and in the area known as Trojan Heights;  
20       (2)   addition of construction staging and laydown areas near the energy facility  
21            site;  
22       (3)   addition of an area south of the energy facility site for disposal of excess  
23            soil from construction;  
24       (4)   addition of an auxiliary boiler within the energy facility site;  
25       (5)   inclusion of the proposed switchyard as part of Phase 1 rather than Phase 2;  
26       (6)   new buildings at the existing PGE intake structure on Bradbury slough for  
27            electrical controls and chlorination, respectively;  
28       (7)   reduction in the required retirement funds; and,  
29       (8)   new conditions and modification of other conditions regarding habitat  
30            protection for osprey, peregrine falcons, and bald eagles.

31  
32   On December 13, 2004, in response to a recommendations in a letter from the Department  
33   of Fish and Wildlife (“ODFW”), dated December 9, 2004, PGE proposed a new condition  
34   regarding the habitat for bald eagles that have begun nesting near the energy facility since  
35   the Council granted the Site Certificate. It also proposed modifications to its proposed  
36   condition relating to peregrine falcons.

37  
38   **A. Name and Address of the Certificate Holder**

39       Portland General Electric Company  
40       121 SW Salmon Street  
41       Portland, OR 97204

42  
43   The individual responsible for submitting the request:  
44

1 Arya Behbehani-Divers  
2 Portland General Electric Company  
3 121 SW Salmon Street, 3WTC-BR03  
4 Portland, OR 97204  
5 503-464-8141  
6

7 **B. Description of the Facility**

8 The Council granted the Site Certificate for the facility on November 8, 2002, and  
9 amended the Site Certificate on December 5, 2003, and September 24, 2004. It issued the  
10 Final Orders for the Site Certificate and the First and Second Amended Site Certificates  
11 (“Final Orders”) on the same dates, respectively.  
12

13 The facility is a 560 megawatt (“MW”) natural-gas-fired, combined-cycle generating  
14 facility. The facility will be located in Columbia County, Oregon, about seven miles by  
15 road northeast of the City of Clatskanie. PGE has not begun construction of the facility.  
16

17 **II. Description of the Proposed Amendment**

18 OAR 345-027-0060(1)(c) requires that an amendment request include “a detailed  
19 description of the proposed change and certificate holder’s analysis of the proposed change  
20 under the criteria of OAR 345-027-0050(1).” PGE included some changes for information  
21 to the Council, but they do not require Site Certificate amendments. The proposed changes  
22 to the energy facility include the following:  
23

24 **A. Changes to Energy Facility:**

- 25
- 26 (1) Auxiliary boiler: PGE proposed to include an auxiliary boiler at the energy facility  
27 site as part of Phase 1. The auxiliary boiler would be included within the footprint  
28 previously identified for Phase 1. The auxiliary boiler would be installed to supply  
29 steam for plant start-ups and short duration shut-downs. During start-ups this  
30 steam would be used for cooling the combustion components of the gas turbine and  
31 supplying the steam turbine steam seal system. During short duration plant shut-  
32 downs, it would supply steam to the steam turbine steam supply piping to decrease  
33 the start-up time. The auxiliary boiler would use natural gas fuel. PGE expects it  
34 to operate about 751 hours per year. The auxiliary boiler designed fuel use would  
35 be about 91 million Btu/hr at full load.  
36
  - 37 (2) Construction and operation of switchyard as part of Phase 1: The Site Certificate  
38 currently includes the switchyard as part of Phase 2. PGE proposed to construct  
39 the switchyard as part of Phase 1 of the energy facility. This would be only a  
40 change in timing, not a change in the overall impact of the energy facility.  
41
  - 42 (3) Seven-cell cooling tower: Phase 1 would include a 7-cell cooling tower. Previous  
43 site plans have shown a total of 10 cooling tower cells for Phases 1 and 2  
44 combined. This change does not require an amendment to the text of the Site  
45 Certificate, because Section C.1.a of the Site Certificate describes only the  
46 dimensions of the cooling towers (“cooling towers and circulating water pumps

1 will cover an area of about 75 feet by 650 feet and will stand about 50 feet high”).  
2 The 7-cell cooling tower would be within the dimensions described in the Site  
3 Certificate.  
4

- 5 (4) Deer exclusion fencing: PGE proposed to build a deer-exclusion fence around the  
6 energy facility site to keep deer out of the energy facility site. The Application for  
7 a Site Certificate (“ASC”) discussed "deer-friendly" fencing at the bottom of page  
8 Q-27 (March 2002 version): "If fencing is proposed at the new power plant, 'deer-  
9 friendly' fencing will be used to minimize injuring or killing deer. Deer habits will  
10 be considered during design of the fence." The ASC should have used the term  
11 “deer exclusion fencing.” “Friendly” fences are generally installed in a manner  
12 that allows deer to pass through, over or under safely. In other words, it doesn't  
13 prevent deer from reaching the other side of the fence. An “exclusion” fence is  
14 meant to do just the opposite. It prevents deer from getting to the other side of the  
15 fence; so it is built in such a manner that prevents deer passage. An “exclusion”  
16 fence is needed to keep deer from entering the energy facility. The Site Certificate  
17 does not expressly address the type of fence that will surround the energy facility.  
18 Therefore, no change to current Site Certificate conditions is required.  
19

## 20 **B. Additions or Changes to Related or Supporting Facilities**

- 21  
22 (1) Spoils disposal area: As shown on Figure B-2 (Attachment 5, revised December 9,  
23 2004), PGE proposed to use about 11.6 acres for disposal of excess soils from  
24 construction of the energy facility. Excess soils from the energy facility  
25 construction site would be spread across the spoils site. The spoils site would be  
26 revegetated in accordance with existing Site Certificate conditions.  
27  
28 (2) Temporary construction staging and laydown area: PGE proposed to use a  
29 construction staging and laydown area of 6.3 acres that would be located northwest  
30 of the energy facility site. (See revised Figure J-1.4, submitted December 9, 2004).  
31 PGE would clear the laydown area of trees and shrubs and then cover it with gravel  
32 over a layer of geotech fabric. PGE would use the laydown area for storing  
33 equipment and materials and as a staging area for constructing the power plant.  
34 PGE would demarcate near-by wetland #4 during construction to prevent any  
35 impacts on that wetland.  
36  
37 (3) New buildings at intake structure. PGE proposed to construct two small structures  
38 near the existing PGE water intake structure on Bradbury Slough. One structure,  
39 about 20 feet by 30 feet, would be for chlorination. One structure, about 10 feet by  
40 15 feet, would be for electrical control. Underground lines would connect these  
41 structures to the intake structure. The structures and underground connection  
42 would be in a previously developed and disturbed area that is currently covered  
43 with gravel.  
44  
45 (4) Increase in size of demineralized water pipeline from Beaver Generating Plant to  
46 energy facility site: The Site Certificate, Section C.1.b, described the

1 demineralized water line from the PGE Beaver Generating Plant to the energy  
2 facility as “about 4 inches in diameter.” PGE proposed to use a line of up to 6  
3 inches in diameter to meet its needs. The location of the line would be the same as  
4 indicated in PGE’s Request for Amendment No. One.  
5

6 (5) Outfall connection to Port wastewater system: PGE has changed the dimension of  
7 the outfall pipe to the Port of St. Helens wastewater disposal system on Figure B-2.  
8 This does not require an amendment to the Site Certificate because the dimension  
9 of the outfall pipe is not described in the Site Certificate.  
10

11 (6) Transmission realignment and changes in transmission locations:

12 (a) Adjacent to the Bonneville Power Administration’s (“BPA”) Allston  
13 Substation: PGE proposed to move the transmission alternative described  
14 in the ASC as Alternative 4 to the east in the vicinity of the Allston  
15 Substation. PGE requested authorization for two possible corridors: one  
16 alignment would be immediately west of Heath Road, while the other  
17 alignment would have three transmission towers located on the east side of  
18 Heath Road. Neither minor realignment would require any changes to Site  
19 Certificate conditions. PGE provided a revised Figure J-1.10 showing the  
20 east-side option of the realignment on December 16, 2004.  
21

22 (b) South of Allston Substation: PGE proposed to locate one transmission  
23 tower slightly further north in Alternative 4 in order to avoid wetlands.  
24 This would result in a small triangular area of new transmission corridor,  
25 about 0.77 acres, that was not included in the ASC. This minor realignment  
26 does not require any changes to Site Certificate conditions.  
27

28 (c) Trojan Heights: PGE would place one transmission tower would in a  
29 slightly different location to avoid a steep, unstable side slope. No changes  
30 to Site Certificate conditions are required.  
31

### 32 **C. Other Proposed Changes to the Site Certificate**

33 PGE also proposed changes to Site Certificate conditions that are not directly related to  
34 new or modified facilities.  
35

36 (1) Reduction in the required retirement funds: PGE has revised its estimate of the  
37 required retirement funds, based on the methodology that Site Certificate Holders  
38 used to obtain Council approval for the retirement fund estimates for the COB  
39 Energy Facility and the Summit Westward Project. The methodology results in a  
40 lower estimate of retirement funds.  
41

42 (2) New conditions and modification of certain conditions regarding habitat protection.  
43 PGE proposed to eliminate a condition relating to moving an artificial nest platform  
44 with an unused osprey nest near the energy facility site and to change limitations on  
45 construction activities near a peregrine falcon nest close to the Trojan switchyard.  
46 It incorporated changes proposed by ODFW into its proposed conditions.

1  
2 Based on comments by ODFW, PGE proposed a new condition to monitor the  
3 impact of the operation of the energy facility on bald eagles that have built a nest  
4 within one-half mile of the energy facility site since the Council granted the Site  
5 Certificate. The new condition requires the Certificate Holder to provide  
6 mitigation measures to meet the goals of Habitat Category 2 if monitoring indicates  
7 that the operation of the energy facility is affecting the near-by bald eagles' nest.  
8

9 **III. Procedural History**

10 **A. Department of Energy Review Steps**

11 **1. The Certificate Holder's Request**

12 PGE submitted the Request for Third Amendment to the Site Certificate for the Port  
13 Westward Generating Project on November 3, 2004. In response to the Department of  
14 Energy's ("Department") questions, it amended its request and provided additional  
15 information in support of its amendment requests in correspondence on December 8, 9,  
16 13, and 16, 2004,  
17

18 **2. Notice to the Site Certificate Holder**

19 On November 30, 2004, the Department mailed notice to PGE, pursuant to OAR 345-027-  
20 0070(1)(c), that it would issue a proposed order no later than December 15, 2004, provided  
21 it received timely responses to the requests for information that it had submitted to PGE.  
22 The Department issued the proposed order on December 16, 2004, due to delays in  
23 response to its questions.  
24

25 **3. Review by Other Agencies, Local Governments, and Tribes**

26 The Department, pursuant to OAR 345-027-0070(1)(a), identified potentially affected  
27 agencies, local governments, and tribes and asked them to review the request for  
28 amendment. The Department mailed a copy of the amendment request along with a review  
29 report form on November 5, 2004, to those agencies, local governments and tribes and  
30 asked them to reply by November 30, 2004. The Department sent the request to the  
31 following agencies, local governments and tribes:  
32

33 Department of Geology and Mineral Industries	Department of Fish and Wildlife
34 Department of State Lands	Department of Agriculture
35 Water Resources Department	Department of Parks and Recreation
36 State Historic Preservation Office	Department of Environmental Quality
37 Office of State Fire Marshall	Public Utilities Commission
38 Oregon Building Codes Division	Department of Forestry
39 Northwest Power and Conservation Council	Department of Transportation
40 Dept. of Land Conservation and Development	Department of Aviation
41 City of Astoria	City of Rainier
42 City of Saint Helens	City of Clatskanie
43 City of Columbia City	Columbia County
44 Confederated Tribes of the Grand Ronde	Clatsop County
45 Confederated Tribes of the Warm Springs	Chinook Indian Tribe
46 Confederated Tribes of the Siletz	

1  
2 **4. Replies**

3 On November 12, 2004, the Department of State Lands (“DSL”) e-mailed the Department  
4 of Energy, PGE and PGE’s wetlands consultant a series of comments and questions about  
5 the wetland delineation for the proposed changes. On December 9 and 16, 2004, PGE  
6 responded. On December 16, DSL concurred that the proposed changes would not affect  
7 wetlands.

8  
9 On December 2, 2004, the ODFW met with PGE and Department staff and Department  
10 consultants concerning the proposed changes to conditions that relate to wildlife and the  
11 recent nesting of bald eagles near the energy facility site. On December 9, 2004, ODFW  
12 submitted comments that concurred in PGE’s proposal regarding the osprey nest and the  
13 reliance on a federal Biological Opinion and Incidental Take Statement for the bald eagles’  
14 nest. ODFW also recommended a new condition regarding habitat for the bald eagles’ nest  
15 and recommended modifications to the condition relating to the peregrine falcon nest at the  
16 Trojan Nuclear Plant. On December 13, 2004, PGE concurred with ODFW’s suggested  
17 new condition regarding habitat for the eagles’ nest and ODFW’s suggested change to the  
18 condition regarding the peregrine falcon nest. PGE requested that ODFW’s  
19 recommendations be incorporated into its request as PGE-proposed conditions. The  
20 changes are incorporated in Section IV.A, below.

21  
22 No other agency, local government, or tribe stated objections to the requested amendment  
23 or recommended conditions.

24  
25 **5. Initial Public Notice**

26 On November 5, 2004, the Department mailed a notice of the request for amendment to all  
27 persons on the Council’s general mailing list and persons on the Council’s special mailing  
28 list for the Project, pursuant to OAR 345-027-0070(1)(b). The notice asked for comments  
29 to the Department by November 30, 2004.

30  
31 **6. Public Comments on the Request**

32 The Department received no comments from the public on the request for amendment.

33  
34 **7. Proposed Order**

35 The Department issued its proposed order on December 16, 2004.

36  
37 **8. Public Notice of Proposed Order**

38 On December 17, 2004, the Department mailed a notice of its proposed order to all persons  
39 on the Council’s general mailing list and persons on the Council’s special mailing list for  
40 the Project, pursuant to OAR 345-027-0070(1)(b). The notice asked for comments to the  
41 Department by January 18, 2005.

42  
43 **9. Public Comments on the Proposed Order**

44 The Department received no written comments on the proposed order and no requests for a  
45 contested case. It received several requests for information about the amendment request.

1 **B. Council Review Steps**

2 **1. Council Notice**

3 The Department mailed the request for amendment and a memo summarizing the request  
4 to the Council on November 5, 2004. On December 17, 2004, the Department mailed the  
5 proposed order to the Council and to persons who had requested it.  
6

7 **2. Council Action on the Amendment Request**

8 On January 28, 2005, the Council took action on the amendment request during its regular  
9 meeting in Tigard, Oregon.  
10

11 **IV. Proposed Changes to Site Certificate**

12 Under OAR 345-027-0050, a Site Certificate amendment request is required if a  
13 Certificate Holder proposes to change the site boundary or otherwise to design, construct,  
14 operate or retire a facility in a manner different from the description in the Site Certificate  
15 and the proposed change meets one of four criteria, discussed below. PGE's proposed  
16 changes trigger a Site Certificate amendment pursuant to the following criteria:  
17

18 1(a) *“Could result in a significant adverse impact that the Council did not*  
19 *evaluate and address in the final order granting a site certificate affecting any*  
20 *resource protected by applicable standards in Divisions 22 and 24 of this chapter.”*

21 The proposed changes trigger a Site Certificate amendment because the changes  
22 will result in an energy facility plan that differs from the description in the Site  
23 Certificate. Specifically, the proposed changes involve revisions to the site  
24 boundary and the facility design, including related or supporting facilities.  
25

26 1(b) *“Could result in a significant adverse impact that the Council did not*  
27 *evaluate and address in the final order granting a site certificate affecting*  
28 *geographic areas or human, animal or plant populations.”* The requested  
29 amendments would expand the geographic areas affected by the proposed facility.  
30 There are also potential impacts on bald eagles that have nested near the energy  
31 facility site since the Council issued the Final Orders granting the Site Certificate.  
32

33 1(c) *“Could impair the certificate holder’s ability to comply with a site*  
34 *certificate condition; or”* As shown in Section IV below, PGE proposed to amend  
35 the Site Certificate in order to authorize the Certificate Holder to implement the  
36 proposed changes to the facility.  
37

38 1(d) *“Could require a new condition or change to a condition in the site*  
39 *certificate.”* As shown below in Section IV, the PGE requested amendments to the  
40 Site Certificate. The amendments to the Site Certificate include the new conditions  
41 described below  
42

43 **A. Site Certificate Holder’s Proposed Changes**

44 OAR 345-027-0060(1)(d) requires that a Certificate Holder include in a request for an  
45 amendment to a Site Certificate “The specific language of the site certificate, including  
46 affected conditions, that the certificate holder proposes to change, add or delete by an

1 amendment.” PGE proposed changes to specific conditions of the Site Certificate are  
2 shown below with additions double-underlined and deletions shown by strikethrough.  
3 Where changes are self-evident, there is no discussion. Page numbers refer to the Second  
4 Amended Site Certificate.

5  
6 **1. Title Page and Page 1:**  
7 ~~Second~~Third Amended Site Certificate for the Port Westward Generating Project.

8  
9 **2. Page 1, Section A, Introduction:**

10 This site certificate for the Port Westward Generating Project (“PWGP or Project”) is  
11 issued and executed in the manner provided by ORS Chapter 469, by and between  
12 the State of Oregon (“State”), acting by and through its Energy Facility Siting  
13 Council (“Council”), and the Portland General Electric Company (“PGE” or  
14 “Certificate Holder”).

15  
16 The findings of fact, reasoning and conclusions of law underlying the terms and  
17 conditions of this site certificate are set forth in the following documents, which by  
18 this reference are incorporated herein: (a) the Council's Final Order in the Matter of  
19 the Application for a Site Certificate for the Port Westward Generating Project,  
20 which the Council granted on November 8, 2002; (b) the Council’s Final Order in the  
21 Matter of the Site Certificate for the Port Westward Generating Project Request for  
22 Amendment No. One, which the Council granted on December 5, 2003; ~~and~~(c) the  
23 Council’s Final Order in the Matter of the Site Certificate for the Port Westward  
24 Generating Project Request for Amendment No. Two, which the Council granted on  
25 September 24, 2004. ~~[Amendments No. 1 & 2];~~ and (d) the Council’s Final Order in  
26 the Matter of the Site Certificate for the Port Westward Generating Project Request  
27 for Amendment No. Three, which the Council granted on \_\_\_\_\_.  
28 [Amendments No. 1, 2 & 3]

29  
30 In interpreting this site certificate, any ambiguity shall be clarified by reference to,  
31 and in the following priority: this Site Certificate, the record of the proceedings  
32 which led to the Final Order, and the Application for a Site Certificate for the Port  
33 Westward Generating Project. As used in this Site Certificate, the “application for  
34 site certificate” or the “ASC” includes: (a) the Application for a Site Certificate for  
35 the Port Westward Generating Project, which the Office of Energy (“Office”) filed  
36 on April 11, 2002; (b) the Certificate Holder’s Request for First Amendment to the  
37 Site Certificate for the Port Westward Generating Project, which the Council  
38 received on October 25, 2003; ~~and~~(c) the Certificate Holder’s Request for Second  
39 Amendment to the Site Certificate for the Port Westward Generating Project, which  
40 the Council received on May 7, 2004; and (d) the Certificate Holder’s Request for  
41 Third Amendment to the Site Certificate for the Port Westward Generating Project,  
42 which the Council received on November 3, 2004. [Amendments No. ~~1~~&1, 2 &3]

43 \*\*\*

44  
45 **3. Page 3, Section B, Site Certification (10):**

1 The Certificate Holder may develop the energy facility in two phases. Phase 1 would  
2 consist of the southernmost generating unit (“Unit 1”), including one combustion  
3 turbine generator, heat recovery steam generator, steam generator, one step-up  
4 transformer bank, auxiliary transformer, and cooling tower. Phase 1 would also  
5 include all of the energy facility components common to the two units and the related  
6 or supporting facilities, ~~except the switchyard~~. Phase 2 would consist of the  
7 northernmost generating unit (“Unit 2”), and its associated facilities ~~and the~~  
8 ~~switchyard~~. All conditions of this Site Certificate apply equally to Phase 1 and Phase  
9 2, unless a condition specifies different obligations for Phase 1 or Phase 2.  
10 [~~Amendment~~Amendments No. 1 & 3]

11  
12 **Discussion.** PGE proposed to revise the description of the phasing of energy facility  
13 development to include the switchyard in Phase 1 rather than Phase 2.

- 14  
15 4. Page 4, Section C.1.a, Major Structures and Equipment, insert at line 14:  
16 An auxiliary boiler will supply steam for plant start-ups and short duration shut-  
17 downs. The auxiliary boiler will be fueled with natural gas. [Amendment No. 3]  
18

19 **Discussion.** PGE proposed to revise the description of the energy facility structures and  
20 equipment to include an auxiliary boiler as part of the energy facility.

- 21  
22 5. Page 5, Section C.1.a, Major Structures and Equipment, beginning at Line 4:  
23 The Certificate Holder may develop the whole facility at the same time or it may  
24 develop only one of the generating units and the related or supporting facilities  
25 (“Phase 1”) or the two units of the energy facility in two distinct phases (“Phase 1”  
26 and “Phase 2”). As referred to in this Site Certificate, the Certificate Holder would  
27 develop Phase 1 first if it develops the energy facility in phases. Phase 1 would  
28 consist of the southernmost generating unit (“Unit 1”), including a combustion  
29 turbine generator, heat recovery steam generator, steam generator, one step-up  
30 transformer bank, auxiliary transformer, and cooling tower. Phase 1 would also  
31 include all of the energy facility components common to the two units and the related  
32 or supporting facilities, ~~except the switchyard, which the Certificate Holder would~~  
33 ~~construct with the northernmost generating unit (“Unit 2”) and associated facilities~~  
34 ~~as part of Phase 2.~~ [~~Amendment.~~ Amendments No. 1 & 3]  
35

36 **Discussion.** PGE proposed to revise the description of the phasing of energy facility  
37 development to include the switchyard in Phase 1 rather than Phase 2.

38  
39 **Output.** The energy facility will have a net electric power output of about 560 MW  
40 (~~280 MW per generating unit~~) at an average annual site condition of 51 degrees  
41 Fahrenheit, 14.691 pounds per square inch barometric pressure, and 78 percent  
42 relative humidity. The new and clean heat rate will be about 6,790 Btu (higher  
43 heating value). [~~Amendment~~Amendments No. 1 & 3]  
44

45 With power augmentation technologies (duct burning), the energy facility will have a  
46 net electric power output of about 650 MW (~~325 MW per generating unit~~) and a new

1 and clean heat rate of about 7,100 Btu (higher heating value). The Certificate Holder  
2 proposes to operate the energy facility with power augmentation technologies for  
3 3,000 hours annually on average. [~~Amendment~~Amendments No. 1 & 3]  
4

5 **Fuel Use.** The energy facility will use natural gas as the only fuel to power the  
6 turbines and the power augmentation technologies. It will use 4,600 MM Btu per  
7 hour (~~2,300 MM BTU per hour per generating unit~~) of natural gas at full load with  
8 the duct burners in operation at the average annual site condition.  
9 [~~Amendment~~Amendments No. 1 & 3]  
10

11 **Discussion.** PGE proposed to revise the descriptions of energy facility output and fuel use  
12 to eliminate parenthetical references to the output and fuel use “per generating unit.” PGE  
13 anticipated that the generating unit in Phase 1 would be substantially larger than the “per  
14 generating unit” average. As PGE stated in conjunction with its Request for Amendment  
15 No. One, it understands that it could not construct a second generating unit of the same  
16 larger size without obtaining an amendment to the Site Certificate.  
17

18 **Water Use.** The energy facility will obtain water to generate steam and to cool the  
19 steam process from an existing PGE intake structure on the Bradbury Slough of the  
20 Columbia River. The Certificate Holder will use water from PGE’s existing  
21 industrial water right, from partial transfer of a water right associated with PGE’s  
22 Trojan Nuclear Plant (subject to approval of a transfer by the Oregon Water  
23 Resources Department) and, if necessary, will enter into a contract with the Port of  
24 St. Helens, which has an existing water permit, to obtain water sufficient for  
25 operation of the energy facility. [~~Amendment~~Amendments No. 1 & 3]  
26

27 Average water demand at the energy facility will be about 2,800 gallons per minute  
28 (“gpm”), or 4.0 million gallons per day (“gpd”). Peak water demand will be about  
29 3,700 gpm, 5.4 million gpd, or 8.3 cubic feet per second (“cfs”). ~~These amounts~~  
30 ~~would be reduced by one half for Unit 1 and for Unit 2.~~ [~~Amendment~~Amendments No.  
31 1 & 3]  
32

33 The energy facility will require no new state-administered water right, water rights  
34 transfer, or surface water right permit for water supply. The Port of St. Helens has an  
35 existing municipal water use permit for 30 cfs and PGE has an existing industrial  
36 water right for 11.3 cfs. [~~Amendment~~PGE expects to apply for a partial transfer of a  
37 water right associated with PGE’s Trojan Nuclear Plant, Certificate No. 73396, but  
38 an adequate water supply is available for operation of the energy facility without that  
39 such a transfer. [Amendments No. 1 & 3]  
40

41 \*\*\*

42 **Discussion.** PGE proposed to revise the description of water use to include the potential  
43 use of water under a water right associated with the Trojan Nuclear Plant (Certificate No.  
44 73396) if a partial transfer of that right is approved by the Oregon Water Resources  
45 Department. PGE proposed to revise the description of the energy facility water use to  
46 eliminate a statement that water consumption figures “would be reduced by one half for

1 Unit 1 and for Unit 2.” PGE anticipates that the generating unit in Phase 1 would require  
2 more than one-half of the average of peak water demand for the energy facility as a whole.  
3 As PGE stated in conjunction with its Request for Amendment No. One, PGE understands  
4 that it could not construct a second generating unit of the same size without obtaining an  
5 amendment to the Site Certificate.

6  
7 **6. Page 7, Section C.1.b, Related or Supporting Facilities, insert at line 6:**  
8 **Chlorination and Electrical Control Buildings.** Two small structures will be  
9 constructed on upland south of the intake facility. One structure, with a footprint of  
10 about 600 square feet, will be for chlorination. The other structure, with a footprint  
11 of about 150 feet, will be for electrical control. Underground lines in a 25-foot wide  
12 corridor will connect these structures to the intake structure. [Amendment No. 3]

13  
14 **Discussion.** PGE proposed to revise the description of related or supporting facilities to  
15 include the chlorination and electrical control buildings that would be located on upland  
16 south of the existing PGE water intake facility.

17  
18 **7. Page 7, Section C.1.b, Related or Supporting Facilities, beginning at line 20:**  
19 The Certificate Holder may also construct a demineralized water pipeline about  
20 ~~four~~six inches in diameter from the PGE Beaver Generating Plant to the energy  
21 facility. If the Certificate Holder constructs the demineralized water pipeline, it will  
22 not construct a water treatment building as part of the energy facility. The Certificate  
23 Holder will install a backup 13.8 kV electrical distribution line and a  
24 communications line in a conduit from the PGE Beaver Generating Plant to the  
25 energy facility. The demineralized water line, communications line, and backup  
26 electricity lines will be about 1, 200 feet long, and the portion of the potable water  
27 line between the potable water storage tank and the water supply pipeline corridor  
28 will be about 1,700 feet long. [~~Amendment~~Amendments No. 1 & 3]

29  
30 **Temporary Construction Staging and Laydown Areas.** A temporary construction  
31 staging and laydown area of 6.3 acres will be located northwest of the energy facility  
32 site. Another laydown area of about 6 acres will be located on upland south of the  
33 existing PGE water intake structure. The areas will be used for storing equipment  
34 and materials and as staging areas for constructing the power plant. [Amendment  
35 No. 3]

36  
37 **Spoils Disposal Area.** Excess soils from construction at the energy facility site will  
38 be spread across the spoils disposal site of about 11.6 acres, which will be located  
39 southeast of the PGE Beaver Generating Plant. [Amendment No. 3].

40  
41 **Discussion.** PGE proposed to revise the description of related or supporting facilities to  
42 include the temporary construction staging and laydown areas and the spoils disposal area.  
43 One construction staging and laydown area of about six acres, south of the existing PGE  
44 water intake structure, was included in the ASC, but was not previously described in the  
45 Site Certificate.

1 8. Page 9, Section C.2.b, Related or Supporting Facility Sites, insert at line 9:  
2 **Chlorination and Electrical Control Buildings** Two small structures will be  
3 constructed on upland south of the existing PGE Beaver Generating Plant water  
4 intake structure in Bradbury Slough. The two structures, with a combined footprint  
5 of about 750 square feet, will lie within the 852-acre parcel leased to PGE by the Port  
6 of St. Helens and situated within Section 15, Township 8 North, Range 4 West,  
7 Willamette Meridian. [Amendment No. 3].

8 \*\*\*

9  
10 9. Page 9, Section C.2.b, Related or Supporting Facility Sites, insert at line 24  
11 **Temporary Construction Staging and Laydown Areas.** A temporary construction  
12 staging and laydown area of 6.3 acres will be located northwest of the energy facility,  
13 within the 852-acre parcel leased to PGE by the Port of St. Helens and situated  
14 within Sections 15 and 16, Township 8 North, Range 4 West, Willamette Meridian.  
15 Another laydown area of about 6 acres will be located on upland south of the existing  
16 PGE water intake structure within Section 15, Township 8 North, Range 4 West,  
17 Willamette Meridian. The areas will be used for storing equipment and materials and  
18 as staging areas for constructing the power plant. [Amendment No. 3]

19  
20 **Spoils Disposal Area.** Excess soils from construction at the energy facility site will  
21 be spread across the spoils disposal site of about 11.6 acres, which will be located  
22 southeast of the PGE Beaver Generating Plant, within the 852-acre parcel leased to  
23 PGE by the Port of St. Helens and situated within Sections 15 and 22, Township 8  
24 North, Range 4 West, Willamette Meridian.. [Amendment No. 3].

25  
26 **Discussion.** PGE proposed to revise the descriptions of the locations of related or  
27 supporting facilities to describe the locations of the chlorination and electrical control  
28 buildings, both construction staging and laydown areas, and the spoils disposal area.  
29

30 10. Page 12, Section D.3, Retirement and Financial Assurance (4)  
31 ~~Notwithstanding Conditions D.3(1), D.3(2), and D.3(3), if the Certificate Holder~~  
32 ~~begins construction of the Port Westward to BPA Allston Substation Transmission~~  
33 ~~Line before beginning construction of the energy facility and other related or~~  
34 ~~supporting facilities, Conditions D.3(1), D.3(2), and D.3(3) shall apply to that~~  
35 ~~transmission line separately for as long as it is under construction or operation~~  
36 ~~independent of the energy facility; and, a~~ retirement plan that the Certificate Holder  
37 submits may provide that ~~the Port Westward to BPA Allston Substation~~  
38 ~~Transmission Line remain~~ transmission lines constructed and operated under this  
39 Site Certificate remain in operation to serve other energy facilities. [Amendment No.  
40 3]  
41

1 **Discussion.** PGE proposed to revise Condition D.3(4) because it anticipates beginning  
2 construction on Phase 1 in early 2005 and therefore no longer needs the option of building  
3 the Port Westward to BPA Allston Substation Transmission Line before beginning the  
4 construction of the energy facility. PGE also proposed to retain the ability to keep any  
5 transmission lines it constructs under the Site Certificate in service after retirement of the  
6 energy facility.

7  
8 **11** Page 12, Section D.3, Retirement and Financial Assurance (5)

9 Before beginning construction of the energy facility, the Certificate Holder shall  
10 submit to the State of Oregon, through the Council, a bond or letter of credit in the  
11 amount of ~~\$8,640,000~~3,449,000 (in ~~2002~~2004 dollars as of the ~~second~~fourth quarter)  
12 naming the State of Oregon, acting by and through the Council, as beneficiary or  
13 payee. [Amendment No. 3]

14  
15 (a) If the Certificate Holder develops the energy facility in phases, then before  
16 beginning construction of Phase 1, the Certificate Holder shall submit a bond  
17 or letter of credit in the amount of ~~\$4,700,000~~2,415,000 (in ~~2002~~2004 dollars  
18 as of the ~~second~~fourth quarter). Before beginning construction of Phase 2,  
19 the Certificate Holder shall increase the amount of such bond or letter of  
20 credit to ~~\$8,640,000~~3,449,000 (in ~~2002~~2004 dollars as of the ~~second~~fourth  
21 quarter). ~~[Amendment No. 1]~~[Amendments No. 1 & 3]

22  
23 ~~(b) In the event the Certificate Holder begins construction of the Port Westward~~  
24 ~~to BPA Allston Substation Transmission Line before beginning construction~~  
25 ~~of the energy facility, the Certificate Holder shall submit to the State of~~  
26 ~~Oregon, through the Council, a bond or letter of credit in the amount of~~  
27 ~~\$394,000 (in 2002 dollars as of the second quarter).~~

28 ~~(b) [Deleted]. [Amendment No. 3]~~

29  
30 ~~(c) If the Certificate Holder has previously begun construction of the Port~~  
31 ~~Westward to BPA Allston Substation Transmission Line, the Certificate~~  
32 ~~Holder shall increase the amount of such bond or letter of credit to~~  
33 ~~\$8,640,000 (in 2002 dollars as of the second quarter) before beginning~~  
34 ~~construction of the energy facility. If the Certificate Holder develops the~~  
35 ~~energy facility in phases, the Certificate Holder shall increase the amount of~~  
36 ~~such bond or letter of credit to \$4,700,000 (in 2002 dollars as of the second~~  
37 ~~quarter) before beginning construction of Phase 1 and to \$8,640,000 (in 2002~~  
38 ~~dollars as of the second quarter) before beginning construction of Phase 2.~~  
39 ~~[Amendment No. 1]~~

40 ~~(c) [Deleted]. [Amendments No. 1 & 3]~~

41  
42 (d) The form of the bond or letter of credit and identity of the issuer shall be  
43 subject to approval by the Council.  
44

- 1 (e) The Certificate Holder shall maintain a bond or letter of credit in effect at all  
 2 times until the energy facility or the Port Westward to BPA Allston  
 3 Substation Transmission Line has been retired, as appropriate.  
 4
- 5 (f) The calculation of ~~2002~~2004 dollars shall be made using the U.S. Gross  
 6 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the  
 7 Oregon Department of Administrative Services' "Oregon Economic and  
 8 Revenue Forecast," or by any successor agency (the "Index"). If at any time  
 9 the Index is no longer published, the Council shall select a comparable  
 10 calculation of ~~2002~~2004 dollars. [Amendment No. 3]  
 11
- 12 (g) The amount of the bond or letter of credit account shall increase annually by  
 13 the percentage increase in the Index.  
 14
- 15 (h) The Certificate Holder shall not revoke or reduce the bond or letter of credit  
 16 before retirement of the facility without approval by the Council.  
 17

18 **Discussion.** PGE proposed to revise Condition D.3(5) to eliminate D.3(5)(b) and  
 19 D.3(5)(c), because it no longer needs the option of building the Port Westward to BPA  
 20 Allston Substation Transmission Line before beginning the construction of the energy  
 21 facility. In addition, PGE revised its retirement cost estimates for the reasons described  
 22 below in the Section V.C discussion of compliance with OAR 345-022-0050, Retirement  
 23 and Financial Assurance.  
 24

25 **12** Page 21, Section D.8, Fish and Wildlife Habitat (7):

26 ~~During construction of Phase 1 of the energy facility, the Certificate Holder shall~~  
 27 ~~relocate the existing osprey nest platform to an ODFW approved location for the~~  
 28 ~~period between October 1 and March 30. [Amendment No. 1]~~  
 29 Should operation of the energy facility diminish the quality of nesting habitat for bald  
 30 eagles on Crims Island, the Certificate Holder shall mitigate that impact in order to  
 31 provide no net loss of habitat, plus a net benefit of habitat quality.  
 32

33 (a) The Certificate Holder shall mitigate to compensate for any loss in habitat  
 34 quality if, within three complete bald eagle breeding seasons after beginning  
 35 commercial operation of the energy facility, studies indicate that there has  
 36 been a negative impact to habitat quality at the bald eagle nest site.  
 37

38 (b) The Certificate Holder shall collect and provide accurate and timely  
 39 information to the Department and ODFW on the status (e.g., active or  
 40 inactive; successful or unsuccessful) of the bald eagle nest site throughout  
 41 three complete bald eagle breeding seasons after beginning commercial  
 42 operation of the energy facility.  
 43

44 (c) The Certificate Holder shall consult with the Department and ODFW to  
 45 develop a standardized set of procedures for 1) monitoring the nest site, 2)

1 ensuring that the data collected are sufficient for assessing any impact to  
2 habitat quality, and 3) ensuring that the data are reported in a timely manner.

3  
4 (d) The Certificate Holder, in consultation with the Department and ODFW, shall  
5 use the monitoring data to assess whether an impact to habitat quality has  
6 occurred.

7  
8 (e) If the Department, in consultation with ODFW, determines that a negative  
9 impact to habitat quality has occurred as a result of operating the energy  
10 facility during the monitoring period, the Certificate Holder shall consult with  
11 the Department and ODFW to develop an appropriate mitigation strategy to  
12 meet the mitigation goal for Habitat Category 2.

13  
14 (f) The Certificate Holder shall fund and implement the mitigation strategy  
15 within two years of the Department's determination that a negative impact to  
16 the habitat quality for the nesting bald eagles has occurred from operation of  
17 the energy facility. [Amendments No. 1 & 3]

18  
19 **Discussion.** PGE proposed to delete the original Condition D.8(7), which required the  
20 Certificate Holder to relocate an existing osprey nest, because the ospreys have already  
21 developed a new nest site. ODFW concurred.

22  
23 Based on ODFW's recommendation regarding the bald eagles' nest, PGE amended its  
24 request to incorporate a new Condition (7) that is unrelated to the original condition. This  
25 new condition complements new Condition D.9(9), which relates to the impact of  
26 construction and operation of the energy facility on a threatened or endangered species.  
27 The condition would provide for monitoring and potential mitigation if operation of the  
28 energy facility disturbs the Habitat Category 2 for the new bald eagle nest about one-half  
29 mile from the energy facility. A detailed explanation of the condition is in Section V.H,  
30 below.

31  
32 **13** Page 21, Section D.8, Fish and Wildlife Habitat (8):

33 Before beginning construction of the facility, the Certificate Holder shall conduct  
34 pre-construction surveys within the analysis area and establish construction buffers  
35 around raptor nests during the nesting season, as approved by ODFW. If it is not  
36 practical for the Certificate Holder to avoid the nests of non-listed, threatened or  
37 endangered raptor species, the Certificate Holder shall implement in a timely manner  
38 a mitigation project approved by ODFW that meets the requirements of the Habitat  
39 Mitigation policy for "no net loss" appropriate to the Habitat Category. An  
40 exception to this is the artificial nesting platform located adjacent to the energy  
41 facility site that was installed by Clatskanie PUD to deter ospreys from nesting on a  
42 nearby PUD power pole. Protection buffers or other restrictions and mitigation do  
43 not apply to this artificial nesting site and are not required by ODFW. [Amendment  
44 No. 3]

1 **Discussion.** PGE proposed to revise Condition D.8(8) to clarify that protection buffers or  
2 other restrictions and mitigation for impacts to raptor nests would not apply to an artificial  
3 nesting platform installed by Clatskanie PUD on a PUD power pole.  
4

5 **14** Page 22, Section D.8, Fish and Wildlife Habitat (20):

6 The Certificate Holder shall monitor and control nuisance and invasive plant species  
7 annually for a period of five years in areas where vegetation removal and/or  
8 revegetation has occurred in (1) riparian areas and wetlands along the transmission  
9 line rights-of-way, and (2) in areas temporarily disturbed by construction of the raw  
10 water, gas, and process water discharge lines, in the temporary construction staging  
11 and laydown area northwest of the energy facility site, and in the spoils disposal site.  
12 [Amendment No. 3]  
13

14 **Discussion.** PGE proposed to modify Condition D.8(20), which requires monitoring and  
15 control of nuisance and invasive species, to include the spoils disposal area and the  
16 construction staging and laydown area northwest of the energy facility site.  
17

18 **15** Page 23, Section D.9, Threatened and Endangered Species (6):

19 ~~The Certificate Holder shall not construct at the transmission line terminus at the~~  
20 ~~Trojan Nuclear Plant during the critical peregrine falcon nesting period from January~~  
21 ~~1 to June 30.~~

22 The Certificate Holder shall not conduct construction activities at the transmission  
23 line terminus at the Trojan Nuclear Plant that generate extreme noise or high levels  
24 of visual disturbance during the peregrine falcon critical nesting period from January  
25 1 to June 30. Such activities include pile driving, excavation, and grading for ground  
26 stabilization purposes and site preparation. Construction activities involving lower  
27 levels of visible activity and less noise are allowed throughout the year. These  
28 include such activities as excavating and setting forms, pouring footings, erecting  
29 power line towers and bus duct, hanging conductor wires, installing control wires,  
30 and testing. Prior to beginning construction at the terminus site, PGE shall provide  
31 the Department and ODFW with a final construction schedule that lists various  
32 construction activities and time periods when specific work will be conducted. The  
33 schedule shall include information on the types of heavy construction equipment that  
34 will be used and the approximate number of workers and shall demonstrate that the  
35 construction activities are consistent with the limitations of this condition. PGE shall  
36 provide scheduling updates as necessary to alert the Department and ODFW ahead of  
37 time of any proposed changes in the work schedule should the changes occur during  
38 the critical nesting period. PGE shall not proceed with construction activity at the  
39 transmission line terminus at the Trojan Nuclear Plant during the peregrine falcon  
40 critical nesting period from January 1 to June 30 to the extent that ODFW or the  
41 Department determines that the activity is not consistent with the limitations of this  
42 condition. PGE staff will monitor peregrine falcon activity at the transmission line  
43 terminus at the Trojan Nuclear Plant between January 1 to June 30 of construction  
44 years. Prior to initiation of construction at the transmission line terminus at the  
45 Trojan Nuclear Plant, PGE will coordinate with ODFW and will consequently  
46 prepare a peregrine falcon contingency plan. This contingency plan would address

1 actions to be undertaken in the event that monitoring shows the peregrine falcon  
2 pair's nesting activities to be negatively affected by the transmission line  
3 construction activities. [Amendment No. 3]  
4

5 **Discussion.** PGE proposed to modify Condition D.9(6) to allow construction activities  
6 during the peregrine falcon critical nesting period from January 1 to June 30, if those  
7 activities involve lower levels of visible activity and less noise. PGE revised its proposed  
8 condition based on comments by ODFW in its letter of December 9, 2004.  
9

10 PGE, ODFW and the Department concur on the need to monitor peregrine falcon activity  
11 at the terminus during construction and the need for having a contingency plan if the  
12 construction activities disturb the peregrine falcon pair's nesting activities. This condition  
13 is conditional on whether the peregrine falcons are still on the site during construction.  
14 Other work that PGE has planned at the Trojan Nuclear Plant site that is unrelated to  
15 building the terminus of the Port Westward transmission line may affect whether the  
16 peregrine falcons are still nesting near the terminus when the transmission line  
17 construction occurs.  
18

19 **16** Page 23, Section D.9, Threatened and Endangered Species, insert new (9):  
20 In order to address potential impacts to the bald eagle nest site on the northwest tip  
21 (downstream end) of Crims Island, the Certificate Holder shall construct and operate  
22 the energy facility consistent with the final Biological Opinion and Incidental Take  
23 Statement issued by the U.S. Fish and Wildlife Service. If the requirements of the  
24 Biological Opinion and Incidental Take Statement conflict with any conditions  
25 imposed in this Site Certificate, the Certificate Holder shall consult with the  
26 Department and ODFW to resolve the conflicts prior to taking any action in reliance  
27 on the Biological Opinion and Incidental Take Statement. [Amendment No. 3]  
28

29 **Discussion.** PGE proposed to add Condition D.9(9) to require that the Certificate Holder  
30 protect a new bald eagle nest at the northwest tip (downstream end) of Crims Island by  
31 constructing and operating the energy facility consistent with the final Biological Opinion  
32 and Incidental Take Statement that will be issued by the U.S. Fish and Wildlife Service.  
33

34 **17** Page 34, Section E.1.b, Wetlands and Removal/Fill Permit, insert new (3)  
35 The Certificate Holder shall clearly stake the wetland boundary adjacent to the spoils  
36 disposal area prior to any ground disturbing activity in the spoils disposal area, and  
37 shall maintain the staking until all ground-disturbing activities in the spoils disposal  
38 area have been completed. All contractors disposing of soil in the spoils disposal  
39 area shall be instructed as to the purpose of the staking and to avoid any impact to the  
40 wetlands. Amendment No. 3]  
41

42 **Discussion.** PGE proposed to add Condition E.1.b(3) to require that the Certificate Holder  
43 clearly stake the wetland boundary adjacent to the spoils disposal area prior to any  
44 disturbance, including disposal of soil, in the spoils disposal area and that the Certificate  
45 Holder leave the staking in place until it has completed all soil disturbing activity.  
46

1 **B. Department of Energy’s Proposed Changes**

2 The Department recommended that the Council adopt the amendments that PGE requested  
3 along with making certain changes to the proposed conditions to clarify or expand the  
4 intent of conditions. The changes the Department proposed are highlighted.

6 1. Page 12, Section D.3, Retirement and Financial Assurance (5)

7 Before beginning construction of the energy facility, the Certificate Holder shall  
8 submit to the State of Oregon, through the Council, a bond or letter of credit in the  
9 amount of \$8,640,000~~3,449,000~~ **\$4,938,800** (in ~~2002~~2004 dollars as of the  
10 ~~second~~fourth quarter) naming the State of Oregon, acting by and through the  
11 Council, as beneficiary or payee. [Amendment No. 3]

13 (a) If the Certificate Holder develops the energy facility in phases, then before  
14 beginning construction of Phase 1, the Certificate Holder shall submit a bond  
15 or letter of credit in the amount of \$4,700,000~~2,415,000~~ **\$3,698,000** (in  
16 ~~2002~~2004 dollars as of the ~~second~~fourth quarter). Before beginning  
17 construction of Phase 2, the Certificate Holder shall increase the amount of  
18 such bond or letter of credit to \$8,640,000~~3,449,000~~ **\$4,938,800** (in ~~2002~~2004  
19 dollars as of the ~~second~~fourth quarter). ~~[Amendment No. 1]~~[Amendments No. 1  
20 & 3]

22 ~~(b) — In the event the Certificate Holder begins construction of the Port Westward~~  
23 ~~to BPA Allston Substation Transmission Line before beginning construction~~  
24 ~~of the energy facility, the Certificate Holder shall submit to the State of~~  
25 ~~Oregon, through the Council, a bond or letter of credit in the amount of~~  
26 ~~\$394,000 (in 2002 dollars as of the second quarter).~~

27 ~~(b) [Deleted]. [Amendment No. 3]~~

29 ~~(c) — If the Certificate Holder has previously begun construction of the Port~~  
30 ~~Westward to BPA Allston Substation Transmission Line, the Certificate~~  
31 ~~Holder shall increase the amount of such bond or letter of credit to~~  
32 ~~\$8,640,000 (in 2002 dollars as of the second quarter) before beginning~~  
33 ~~construction of the energy facility. If the Certificate Holder develops the~~  
34 ~~energy facility in phases, the Certificate Holder shall increase the amount of~~  
35 ~~such bond or letter of credit to \$4,700,000 (in 2002 dollars as of the second~~  
36 ~~quarter) before beginning construction of Phase 1 and to \$8,640,000 (in 2002~~  
37 ~~dollars as of the second quarter) before beginning construction of Phase 2.~~  
38 ~~[Amendment No. 1]~~

39 ~~(c) [Deleted]. [Amendments No. 1 & 3]~~

41 (d) The form of the bond or letter of credit and identity of the issuer shall be  
42 subject to approval by the Council.

44 (e) The Certificate Holder shall maintain a bond or letter of credit in effect at all  
45 times until the energy facility or the Port Westward to BPA Allston  
46 Substation Transmission Line has been retired, as appropriate.

- 1  
2 (f) The calculation of ~~2002~~2004 dollars shall be made using the U.S. Gross  
3 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the  
4 Oregon Department of Administrative Services' "Oregon Economic and  
5 Revenue Forecast," or by any successor agency (the "Index"). If at any time  
6 the Index is no longer published, the Council shall select a comparable  
7 calculation of ~~2002~~2004 dollars. [Amendment No. 3]  
8  
9 (g) The amount of the bond or letter of credit account shall increase annually by  
10 the percentage increase in the Index.  
11  
12 (h) The Certificate Holder shall not revoke or reduce the bond or letter of credit  
13 before retirement of the facility without approval by the Council.  
14

15 **Discussion.** The increased amounts of the retirement fund reflect additions of a 20 percent  
16 contingency, \$300,000 for administrative costs for the State of Oregon, and a \$500,000  
17 contingency for hazardous materials management. These calculations are discussed in  
18 Section V.C, below.  
19

20 2. Page 23, Section D.9, Threatened and Endangered Species (6):

21 ~~The Certificate Holder shall not construct at the transmission line terminus at the~~  
22 ~~Trojan Nuclear Plant during the critical peregrine falcon nesting period from January~~  
23 ~~1 to June 30.~~

24 The Certificate Holder shall not conduct construction activities at the transmission  
25 line terminus at the Trojan Nuclear Plant that generate extreme noise or high levels  
26 of visual disturbance during the peregrine falcon critical nesting period from January  
27 1 to June 30. Such activities include pile driving, excavation, and grading for ground  
28 stabilization purposes and site preparation. Construction activities involving lower  
29 levels of visible activity and less noise are allowed throughout the year. These  
30 include such activities as excavating and setting forms, pouring footings, erecting  
31 power line towers and bus duct, hanging conductor wires, installing control wires,  
32 and testing.  
33

34 (a) Prior to beginning construction at the terminus site, the Certificate Holder  
35 PGE shall provide the Department and ODFW with a final construction  
36 schedule that lists various construction activities, and time periods when  
37 specific work will be conducted. The schedule shall include information on  
38 the types of heavy construction equipment that will be used and the  
39 approximate number of workers and shall demonstrate that the construction  
40 activities are consistent with the limitations of this condition. The Certificate  
41 Holder-PGE shall provide scheduling updates as necessary to alert the  
42 Department and ODFW ahead of time of any proposed changes in the work  
43 schedule should the changes occur during the critical nesting period.  
44

45 (b) The Certificate Holder shall PGE staff will monitor peregrine falcon activity  
46 at the transmission line terminus at the Trojan Nuclear Plant between January

1 to June 30 of construction years. Before beginning ~~Prior to initiation of~~ construction at the transmission line terminus at the Trojan Nuclear Plant, the Certificate Holder shall PGE will coordinate with ODFW and the Department and shall will consequently prepare a peregrine falcon contingency plan. This contingency plan shall would address actions that the Certificate Holder would undertake to be undertaken in the event that the Department and ODFW determine that monitoring shows the peregrine falcon pair's nesting activities are to be negatively affected by the transmission line construction activities.

- (c) The Certificate Holder PGE shall not proceed with construction activity at the transmission line terminus at the Trojan Nuclear Plant during the peregrine falcon critical nesting period from January 1 to June 30 to the extent that ODFW or the Department determines that the activity is not consistent with the limitations of this condition. [Amendment No. 3]

**Discussion.** The Department recommended that the Council clarify the roles and responsibilities in the condition and that it reformat the condition for clarity.

3. Page 23, Section D.9, Threatened and Endangered Species, insert new (9):  
The Certificate Holder shall not undertake construction at the energy facility site during the bald eagle nesting season unless it obtains a final Biological Opinion and Incidental Take Statement issued by the U.S. Fish and Wildlife Service that addresses ~~In order to address potential impacts to the bald eagle nest site on the northwest tip (downstream end) of Crims Island.~~ ~~the~~

(a) The Certificate Holder shall construct and operate the energy facility consistent with the final Biological Opinion and Incidental Take Statement issued by the U.S. Fish and Wildlife Service.

(b) If the requirements of the Biological Opinion and Incidental Take Statement conflict with any conditions imposed in this Site Certificate, the Certificate Holder shall consult with the Department and ODFW to resolve the conflicts prior to taking any action in reliance on the Biological Opinion and Incidental Take Statement. [Amendment No. 3]

**Discussion.** In order to comply with the Threatened and Endangered Species Standard, the Certificate Holder must have the federal Biological Opinion and Incidental Take Statement before beginning construction because the Council is relying on the federal action to find that PGE meets the Council standard.

4. Page 24, Section D. 11, Historic, Cultural and Archeological Resources, (2) and (3):  
This section has two conditions that are labeled number (2) and no condition labeled number (3).

1 **Discussion.** The Department recommended that the Council correct the sequence  
2 numbering.

- 3  
4 5. Page 34, Section E.1.b, Wetlands and Removal/Fill Permit, insert new (3)  
5 The Certificate Holder shall clearly stake the wetland boundary adjacent to the spoils  
6 disposal area and the wetland number 4 boundary adjacent to the construction  
7 laydown/staging areas in the vicinity of the energy facility prior to any ground  
8 disturbing activity in the spoils disposal area or in the construction laydown/staging  
9 areas in the vicinity of the energy facility, and shall maintain the staking until all  
10 ground-disturbing activities in the spoils disposal area and in the construction  
11 laydown/staging areas in the vicinity of the energy facility have been completed.  
12 The Certificate Holder shall instruct all-AH contractors disposing of soil in the spoils  
13 disposal area and using the construction laydown/staging areas in the vicinity of the  
14 energy facility about shall be instructed as to the purpose of the staking and shall  
15 require them to avoid any impact to the wetlands. Amendment No. 3]  
16

17 **Discussion.** In response to Department inquiries, PGE representatives stated on December  
18 9, 2004, that PGE would stake the boundaries of the construction laydown/staging areas in  
19 the vicinity of the energy facility to prevent any impacts to wetland number 4. The  
20 Department recommended that the Council incorporate that commitment into the  
21 condition.  
22

23 **Conclusion.** The Council adopts the amendments to Site Certificate descriptions and  
24 conditions discussed in Section IV(A) as modified in Section IV(B), pursuant to the  
25 findings in Section V.  
26

## 27 **V. Compliance with Siting Standards**

28 In addressing the standards set forth in this section, the Council assesses the impacts of the  
29 changes proposed in the amendment request and the compliance with applicable standards,  
30 pursuant to OAR 235-027-0070(9).  
31

### 32 **A. Updated List of Property Owners**

33 OAR 345-027-0060(1)(g) requires “for an amendment to change the site boundary or to  
34 extend the deadlines for beginning or completing construction of the facility, an updated  
35 list of the owners of property located within or adjacent to the site of the facility, as  
36 described in OAR 345-021-0010(1)(f).” Because the changes to the location of related or  
37 supporting facilities change the site boundary, PGE provided an updated list as part of its  
38 amendment request.  
39

### 40 **B. Organizational Expertise Standard, OAR 345-022-0010**

41 This standard has four paragraphs. The first two paragraphs, -0010(1) and -0010(2), relate  
42 to application qualifications and capability and the final two paragraphs, -0010(3) and  
43 -0010(4), relate to third-party permits.  
44

1 **1. Applicant Qualification and Capability, OAR 345-022-0010(1)**

2 To issue a site certificate, the Council must find that the applicant has the  
3 organizational expertise to construct, operate and retire the proposed facility  
4 in compliance with Council standards and conditions of the site certificate.  
5 To conclude that the applicant has this expertise, the Council must find that  
6 the applicant has demonstrated the ability to design, construct and operate  
7 the proposed facility in compliance with site certificate conditions and in a  
8 manner that protects public health and safety and has demonstrated the  
9 ability to restore the site to a useful, non-hazardous condition. The Council  
10 may consider the applicant's experience, the applicant's access to technical  
11 expertise and the applicant's past performance in constructing, operating  
12 and retiring other facilities, including, but not limited to, the number and  
13 severity of regulatory citations issued to the applicant.  
14

15 **Discussion.** The proposed changes to the facility are within the scope of PGE's overall  
16 responsibilities to construct, operate, and retire the facility. The findings in the Final  
17 Orders apply. The Council finds that this amendment will not impact PGE's qualifications  
18 as the Certificate Holder.  
19

20 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of  
21 OAR 345-022-0010(1).  
22

23 **2. Applicant Qualification and Capability OAR 345-022-0010(2)**

24 The Council may base its findings under section (1) on a rebuttable  
25 presumption that an applicant has organizational, managerial and technical  
26 expertise, if the applicant has an ISO 9000 or ISO 14000 certified program  
27 and proposes to design, construct and operate the facility according to that  
28 program.  
29

30 **Discussion.** OAR 345-022-0010(2) is not addressed herein because the Certificate Holder  
31 does not have an ISO 9000 or 14000 certified program.  
32

33 **3. Third-Party Services and Permits, OAR 345-022-0010(3)**

34 If the applicant does not itself obtain a state or local government permit or  
35 approval for which the Council would ordinarily determine compliance but  
36 instead relies on a permit or approval issued to a third party, the Council, to  
37 issue a site certificate, must find that the third party has, or has a reasonable  
38 likelihood of obtaining, the necessary permit or approval, and that the  
39 applicant has, or has a reasonable likelihood of entering into, a contractual  
40 or other arrangement with the third party for access to the resource or  
41 service secured by that permit or approval.  
42

43 **Discussion.** The Council finds that the proposed amendment will not change the findings  
44 of the Final Orders regarding third party permits.  
45

1 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of  
2 OAR 345-022-0010(3).

3  
4 **4. Third-Party Services and Permits, OAR 345-022-0010(4)**

5 If the applicant relies on a permit or approval issued to a third party and  
6 the third party does not have the necessary permit or approval at the time  
7 the Council issues the site certificate, the Council may issue the site  
8 certificate subject to the condition that the certificate holder shall not  
9 commence construction or operation as appropriate until the third party  
10 has obtained the necessary permit or approval and the applicant has a  
11 contract or other arrangement for access to the resource or service secured  
12 by that permit or approval.  
13

14 **Discussion.** The modifications to the facility proposed in PGE’s request do not require  
15 any additional third party permits and do not require modification to any Site Certificate  
16 conditions concerning third party permits. PGE requested that the Council amend the Site  
17 Certificate to allow the Certificate Holder to use water under the Trojan water right,  
18 Certificate 73396, if the Oregon Water Resources Department approves transfer of that  
19 water right.

20 In Section D.2.c of the Final Order of November 8, 2002, the Council determined that the  
21 Port of St. Helens has a municipal water use permit and, pursuant to OAR 345-022-  
22 0010(4), conditioned the Site Certificate upon execution of a contract for access to the  
23 required water before beginning construction of the energy facility (Section D.2,  
24 Condition 7). In the Final Order of December 5, 2003, the Council changed the Site  
25 Certificate to require a contract with the Port of St. Helens for “up to” 8.3 cfs. PGE  
26 indicated that it still anticipates entering into an agreement with the Port of St. Helens for  
27 water supply as required by Condition D.2(7) of the Site Certificate.  
28

29 Modifying the Site Certificate to authorize PGE to use water under the Trojan water right,  
30 if a transfer is approved by the Water Resources Department, does not alter the likelihood  
31 that PGE will be able to enter into the required contact with the Port of St. Helens.  
32 Furthermore, the use of the Trojan water right is not necessary for the siting or functioning  
33 of the energy facility. Therefore, the Council finds that the transfer of the Trojan water  
34 right is not a required permit for which the Council must find compliance pursuant to OAR  
35 345-022-0000(1)(b).  
36

37 The Council also finds that the request will not affect the findings in the Final Orders or  
38 conditions in the Site Certificate relating to acquiring third party permits or contracts.  
39

40 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of  
41 OAR 345-022-0010(4).  
42

43 **C. Retirement and Financial Assurance Standard, OAR 345-022-0050**

44 To issue a site certificate, the Council must find that:

- 1 (1) The site, taking into account mitigation, can be restored adequately
- 2 to a useful, non-hazardous condition following permanent cessation
- 3 of construction or operation of the facility.
- 4 (2) The applicant has a reasonable likelihood of obtaining a bond or
- 5 letter of credit in a form and amount satisfactory to the Council to
- 6 restore the site to a useful, non-hazardous condition.
- 7

8 **Discussion.** In Section D.3 of the Final Order of November 8, 2002, the Council found  
9 that, with the imposition of the conditions in Section D.3 of the Site Certificate, the  
10 applicant demonstrated that it could adequately restore the site to a useful, non-hazardous  
11 condition following facility retirement. The Site Certificate requires that the Certificate  
12 Holder submit a bond or letter of credit in the amount of \$8,640,000 (in 2002 dollars as of  
13 the second quarter) to the State of Oregon prior to beginning construction of the facility.  
14 In the Final Order of December 5, 2003, the Council modified the conditions to provide  
15 that, if the Certificate Holder develops the energy facility in phases, the Certificate Holder  
16 shall provide a bond or letter of credit in the amount of \$4,700,000 (in 2002 dollars as of  
17 the second quarter) prior to the beginning of construction of Phase 1, and to increase the  
18 bond to \$8,640,000 (in 2002 dollars as of the second quarter) prior to the beginning of  
19 construction of Phase 2.

20  
21 PGE requested amendments to the Site Certificate to decrease the amount of the bond or  
22 letter of credit. PGE provided a spreadsheet that it prepared in consultation with Pacific  
23 Energy Systems that uses a refined methodology for determining retirement costs. The  
24 Council has previously approved retirement cost estimates based on the use of this  
25 spreadsheet methodology. The new retirement cost estimate is based on estimates of work  
26 necessary for facility retirement, rather than being calculated simply as a percentage of the  
27 cost of constructing the facility, which was the basis for the original finding.

28  
29 The new approach also accounts for the likelihood that PGE, as the holder of a long-term  
30 ground lease for the energy facility site, would not choose to incur the expense of  
31 removing the foundation of the energy facility. The energy facility site is zoned for  
32 industrial use, and the site would be reused for a compatible purpose that could take  
33 advantage of the foundation. In addition, PGE reported that it expects that the  
34 transmission lines constructed under the Site Certificate would continue to be used. Due to  
35 existing and anticipated congestion on transmission facilities in the area and the difficulty  
36 of siting new transmission facilities, the Council finds that the transmission lines likely  
37 would be used by area utilities to bring electricity to the area from the BPA system.

38  
39 PGE estimated that the direct cost for retirement of the energy facility would be  
40 \$3,449,000 (2004 dollars as of the fourth quarter). PGE estimated that the cost of retiring  
41 one unit would be about 70 percent of the cost for both units. Therefore, PGE proposed  
42 that a retirement bond or letter of credit for Phase 1 be \$2,415,000 (2004 dollars as of the  
43 fourth quarter), increasing with construction of Phase 2 to \$3,449,000 (2004 dollars as of  
44 the fourth quarter). The Department reviewed these calculations. The Council adopts  
45 these calculations as the direct costs for retiring the facility. However, these calculations

1 of direct costs do not reflect the full amount of the security required for the retirement  
2 fund.

3  
4 In addition to the direct costs for retirement, the Council has traditionally included a  
5 20 percent contingency, \$300,000 for State of Oregon administrative costs, and a  
6 \$500,000 contingency for hazardous materials management in the requirement for security  
7 for the retirement fund. Applying these additional elements raises the required security for  
8 the retirement fund for Phase 1 to \$3,698,000 (in 2004 dollars as of the fourth quarter).  
9 With construction of Phase 2, the total increases to \$4,938,800 (in 2004 dollars as of the  
10 fourth quarter).

11  
12 The Council finds that amount of the retirement fund applicable to Phase 1 is \$3,698,000  
13 (in 2004 dollars as of the fourth quarter) and that the amount applicable to both Phase 1  
14 and Phase 2 is \$4,938,800 (in 2004 dollars as of the fourth quarter). The Council also  
15 finds that the findings in the Final Orders regarding PGE's ability to obtain a bond or letter  
16 of credit for retiring the energy facility apply to this request.

17  
18 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of  
19 OAR 345-022-0050.

20  
21 **D. Structural Standard, OAR 345-022-0020**

22 (1) Except for facilities described in sections (2) and (3), to issue a site  
23 certificate, the Council must find that:

- 24 (a) The applicant, through appropriate site-specific study, has  
25 adequately characterized the site as to seismic zone and expected  
26 ground motion and ground failure, taking into account  
27 amplification, during the maximum credible and maximum  
28 probable seismic events; and  
29 (b) The applicant can design, engineer, and construct the facility to  
30 avoid dangers to human safety presented by seismic hazards  
31 affecting the site that are expected to result from all maximum  
32 probable seismic events. As used in this rule "seismic hazard"  
33 includes ground shaking, landslide, liquefaction, lateral spreading,  
34 tsunami inundation, fault displacement, and subsidence;  
35 (c) The applicant, through appropriate site-specific study, has  
36 adequately characterized the potential geological and soils hazards  
37 of the site and its vicinity that could, in the absence of a seismic  
38 event, adversely affect, or be aggravated by, the construction and  
39 operation of the proposed facility; and  
40 (d) The applicant can design, engineer and construct the facility to  
41 avoid dangers to human safety presented by the hazards identified  
42 in subsection (c).\*\*\*

43  
44 **Discussion.** Exhibit H (Geology) and Exhibit I (Soil Conditions) of the ASC provide  
45 information relating to seismic, geologic, and soils hazards. The new utilities and above-

1 ground facilities proposed in this amendment request will be located within the same  
2 Seismic Zones analyzed therein.

3  
4 In the Final Order approving the Site Certificate, Section D.5, the Council found that the  
5 applicant met the structural standard, with the eight conditions set forth in Section D.5 of  
6 the Site Certificate. The conditions require more detailed seismic hazard evaluations and  
7 geotechnical investigations prior to beginning construction of the facility. The Site  
8 Certificate conditions requiring additional investigations and reports prior to construction  
9 will apply equally to the new facilities proposed in the amendment request. Therefore, no  
10 revisions to the conditions are necessary to maintain compliance with the Structural  
11 Standard. The Council finds that the findings in the Final Orders regarding the Structural  
12 Standard apply to this request.

13  
14 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
15 requirements of OAR 345-022-0020.

16  
17 **E. Soil Protection Standard, OAR 345-022-0022**

18 To issue a site certificate, the Council must find that the design,  
19 construction, operation and retirement of the facility, taking into account  
20 mitigation, are not likely to result in a significant adverse impact to soils  
21 including, but not limited to, erosion and chemical factors such as salt  
22 deposition from cooling towers, land application of liquid effluent, and  
23 chemical spills.

24  
25 **Discussion.** Because the structures proposed in this amendment request are located either  
26 within or in the near vicinity of the original facility site depicted in the ASC, and therefore  
27 on the same types of soils, the Council's findings extend equally to these new structures.

28  
29 The ten conditions in Section D.6 of the Site Certificate require the Certificate Holder to  
30 employ soil erosion and sediment runoff control measures during any soil disturbing  
31 activities; use native seed mixes to restore vegetation to the extent practicable and  
32 landscape disturbed portions of the site upon completion of soil disturbing activities;  
33 protect soil from chemical spills on site; and minimize drift from cooling towers. These  
34 conditions will regulate construction of the new facilities proposed in this amendment  
35 request and the use and restoration of the additional laydown area and spoils disposal area.  
36 The Council finds that the findings in the Final Orders regarding the Soil Protection  
37 Standard apply to this request.

38  
39 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
40 requirements of OAR 345-022-0022.

1 **F. Land Use Standard, OAR 345-022-0030**

- 2 (1) To issue a site certificate, the Council must find that the proposed  
3 facility complies with the statewide planning goals adopted by the  
4 Land Conservation and Development Commission.
- 5 (2) The Council shall find that a proposed facility complies with section  
6 (1) if:
- 7 (a) The applicant elects to obtain local land use approvals under  
8 ORS 469.504(1)(a) and the Council finds that the facility has  
9 received local land use approval under the acknowledged  
10 comprehensive plan and land use regulations of the affected  
11 local government; or
- 12 (b) The applicant elects to obtain a Council determination under  
13 ORS 469.504(1)(b) and the Council determines that:
- 14 (A) The proposed facility complies with applicable  
15 substantive criteria as described in section (3) and the  
16 facility complies with any Land Conservation and  
17 Development Commission administrative rules and goals  
18 and any land use statutes directly applicable to the facility  
19 under ORS 197.646(3);
- 20 (B) For a proposed facility that does not comply with one or  
21 more of the applicable substantive criteria as described in  
22 section (3), the facility otherwise complies with the  
23 statewide planning goals or an exception to any  
24 applicable statewide planning goal is justified under  
25 section (4); or
- 26 (C) For a proposed facility that the Council decides, under  
27 sections (3) or (6), to evaluate against the statewide  
28 planning goals, the proposed facility complies with the  
29 applicable statewide planning goals or that an exception  
30 to any applicable statewide planning goal is justified  
31 under section (4).\*\*\*
- 32

33 **Discussion.** PGE submitted a “Land Use Standard Analysis” as Attachment 3 to its  
34 request. All of the new or modified elements of the proposed facility would be located  
35 entirely within Columbia County’s planning jurisdiction. As a result, these facilities  
36 would be subject to the provisions of the Columbia County Zoning Ordinance (“CCZO”).  
37 The proposed alterations to the facility are limited to three zones: the Resource Industrial  
38 Planned Development (“RIPD”) zone, the Forest Agriculture FA-19 zone, and the Primary  
39 Forest PF-76 zone. Attachment 3 of the amendment request provided a land use analysis  
40 for the facility changes that PGE proposed.

41  
42 The following new or modified elements of the proposed facility that are addressed in this  
43 land use analysis are located on the 852-acre tract leased to PGE and known as the Port  
44 Westward Industrial Park, which is zoned by Columbia County as RIPD: spoils disposal  
45 area; temporary construction staging and laydown area; and two small buildings near

1 PGE’s water intake structure. As indicated in the original Final Order, none of these areas  
2 or buildings is within a Columbia County Flood Hazard Overlay Zone.

3  
4 PGE proposed the following transmission alignments changes in its amendment request:

5  
6 (1) Adjacent to Allston Substation: The transmission alternative described in the ASC as  
7 Alternative 4 would be moved to the east in the vicinity of the Allston Substation.  
8 PGE requested authorization for two possible corridor options: one alignment would  
9 be immediately west of Heath Road, while the other alignment would have three  
10 transmission towers located on the east side of Heath Road. Both new alignment  
11 options would be the same width as the approved corridor—125 feet—and located on  
12 land zoned by Columbia County as Forest Agriculture-19 (FA-19), which is the same  
13 zoning as the approved alignment. A portion of each corridor would be within the  
14 road right-of-way of Heath Road. PGE would not acquire that portion of the  
15 corridor.

16  
17 (2) South of Allston Substation: One transmission tower would be located slightly  
18 farther north in Alternative 4 in order to avoid wetlands. This would result in a  
19 small triangular area of new transmission corridor, about 0.77 acres, that was not  
20 included in the ASC. The overall width of the transmission corridor would not  
21 change and an area of approved corridor would no longer be needed. The new  
22 alignment would be located on land zoned by Columbia County as Primary Forest-  
23 76 (PF-76), which is the same zoning as the approved alignment.

24  
25 (3) Trojan Heights: PGE would place one transmission tower in a slightly different  
26 location in the area known as Trojan Heights to avoid a steep, unstable slope. The  
27 proposed realignment would also provide improved access to the new transmission  
28 towers using existing access roads. The change is shown on Figure C-7 and  
29 revised Figure J-1.11. The relocated transmission line corridor would be located on  
30 land zoned by Columbia County as Resource Industrial Planned Development  
31 (“RIPD”) and as Primary Forest-76 (PF-76). The approved corridor would be  
32 located in the same zones. The RIPD zone is coterminous with the Trojan  
33 Exception Statement in the Comprehensive Plan.

34  
35 The Council finds that the proposed changes are consistent with the findings in the Final  
36 Orders. The Council finds that the conclusions in the Final Orders apply equally to the  
37 new or modified facilities in the amendment request.

38  
39 PGE identified the following new provision not addressed in the previous Final Orders.  
40

1 **CCZO §1563 Standards for Approval:**

2  
3 D. Historic and Cultural sites and structures. All historic and culturally  
4 significant sites and structures identified in the Comprehensive Plan, or  
5 identified for inclusion in the County periodic Review, shall be  
6 protected if they still exist.  
7

8 In Ordinance No. 2003-6, Columbia County adopted a new inventory of significant  
9 historical sites as part of Article XI of the County’s Comprehensive Plan. In addition, the  
10 Ordinance includes the results of the “Columbia County Intensive-Level Historic Survey,”  
11 which includes the inventoried sites as well as others determined not to be significant. The  
12 Council finds that the modifications proposed in this amendment request, including the  
13 minor alterations in transmission alignments, would not affect any historic resources  
14 identified in Article XI or in the broader survey and that the facility complies with  
15 CCZO §1563 D.  
16

17 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
18 requirements of OAR 345-022-0030.  
19

20 **G. Protected Area Standard, OAR 345-022-0040**

21 (1) Except as provided in sections (2) and (3), the Council shall not  
22 issue a site certificate for a proposed facility located in the areas  
23 listed below. To issue a site certificate for a proposed facility located  
24 outside the areas listed below, the Council must find that, taking into  
25 account mitigation, the design, construction and operation of the  
26 facility are not likely to result in significant adverse impact to the  
27 areas listed below. Cross-references in this rule to federal or state  
28 statutes or regulations are to the version of the statutes or regulations  
29 in effect as of August 28, 2003:\*\*\*  
30

31 **Discussion.** Amendments to OAR 345-022-0040 changed the list of protected areas to  
32 include those areas designated as of August 28, 2003 (the list previously referenced those  
33 areas designated as of March 29, 2002). There are no newly-designated protected areas  
34 within the vicinity of the facility and the analysis area has not changed. Because the new  
35 above-ground structures proposed by PGE would be minor structural additions or  
36 modifications within the energy facility site or would be small structures adjacent to the  
37 existing PGE intake structure, the findings in the Final Orders apply to the proposed  
38 changes. In addition, these minor amendments do not necessitate the addition of any  
39 conditions of approval to maintain compliance with the Protected Areas standard. The  
40 Council finds that the findings in the Final Orders are sufficient to demonstrate compliance  
41 with the Protected Areas Standard.  
42

43 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
44 requirements of OAR 345-022-0040.  
45

1 **H. Fish and Wildlife Habitat Standard, OAR 345-022-0060**

2 To issue a site certificate, the Council must find that the design,  
3 construction, operation and retirement of the facility, taking into account  
4 mitigation, are consistent with the fish and wildlife habitat mitigation goals  
5 and standards of OAR 635-415-0025 in effect as of September 1, 2000.  
6

7 **Discussion.** There are multiple issues related to the Fish and Wildlife Habitat Standard in  
8 this request for amendment. Several elements of this amendment request would involve  
9 disturbance to habitat not considered in the ASC and in Section D.8 of the Final Order of  
10 November 8, 2002. The habitats are the construction staging and laydown area, the spoils  
11 disposal area, and the bald eagle nest on Crims Island.  
12

13 **Construction Staging and Laydown Area and the Spoils Disposal Area.** Two of those  
14 areas, the construction staging and laydown area and the spoils disposal area, were  
15 addressed in Exhibit P (Attachment 9 to the amendment request). Exhibit P indicated that  
16 all habitat disturbed by the laydown area and the spoils disposal area would be in Habitat  
17 Category 4, for which the mitigation goal is no net loss in either existing habitat quantity  
18 or quality. Exhibit P demonstrated that, with revegetation of the disturbed areas under  
19 current Site Certificate conditions, there would be no net loss in either existing habitat  
20 quantity or quality. For these two areas, the Council finds that the requested amendments  
21 relating to the construction staging and laydown area and the spoils disposal area are  
22 consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-  
23 415-0025 in effect as of September 1, 2000.  
24

25 **Osprey Nest.** As discussed in Section IV.A, above, PGE requested several changes to  
26 conditions of approval regarding fish and wildlife habitat. PGE requested that the Council  
27 delete current Condition D.8(7), which required the certificate holder to relocate an  
28 existing osprey nest, because the ospreys have already developed a new nest site. ODFW  
29 concurred with PGE's request. As explained below, PGE proposed an unrelated, new  
30 condition to be numbered D.8(7).  
31

32 **Raptor Nests on Artificial Nesting Platforms on Power Poles.** In addition, PGE  
33 requested that the Council revise Condition D.8(8) to clarify that protection buffers or  
34 other restrictions and mitigation for impacts to raptor nests do not apply to an artificial  
35 nesting platform installed by Clatskanie PUD on a PUD power pole. This would apply to  
36 the power pole that contains the osprey nest that was the subject of Condition D.8(7).  
37 ODFW concurred with this request.  
38

39 **Control of Nuisance and Invasive Species.** PGE also requested that the Council modify  
40 Condition D.8(20), which requires monitoring and control of nuisance and invasive  
41 species, to include the spoils disposal area and the construction staging and laydown area  
42 northwest of the energy facility site.  
43

44 **Bald Eagles' Nest.** After the date the Council approved the facility a pair of bald eagles  
45 built a new nest at the northwest tip (downstream end) of Crims Island. The nest is within  
46 0.5 miles of the energy facility site. It is visible from the site during the winter and early

1 spring, but is completely obscured during late spring and summer when the surrounding  
2 trees have leafed out.

3  
4 The nest site is considered Habitat Category 2 under ODFW rules. The mitigation goal, if  
5 impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a  
6 net benefit of habitat quantity or quality.

7  
8 The PGE amendment request addressed the new nest under the Council's Threatened and  
9 Endangered Species Standard, but not under the Council's Fish and Wildlife Habitat  
10 Standard. PGE prepared an Addendum to the original 2002 Biological Assessment for the  
11 Port Westward Generating Project ("Addendum"). The Addendum addresses the new bald  
12 eagles' nest. PGE submitted the Addendum to the U.S. Fish and Wildlife Service  
13 ("USFWS") in order to fulfill the requirements of Section 7(c) of the federal Endangered  
14 Species Act of 1973. The Addendum found that because the nest is within 0.5 miles of the  
15 site and is within direct "line of sight" during the early phase of the nesting season, the  
16 facility could have an adverse impact on bald eagle nesting, particularly during  
17 construction due to unavoidable noise and visual activity. The Addendum concluded that  
18 the energy facility "may affect, and is likely to adversely affect bald eagles." PGE  
19 requested that the USFWS prepare a Biological Opinion and an Incidental Take Statement  
20 for the project. PGE expects that the USFWS will grant an incidental take in this situation.

21  
22  
23 PGE, in its amendment request proposed a new condition to address the Council's  
24 Threatened and Endangered Species Standard, OAR 345-022-0070. The Department  
25 recommended that the Council require that PGE have the Biological Opinion and  
26 Incidental Take Statement before beginning construction. The proposed condition is at  
27 Sections IV.A.16 and IV.B.3, above.

28  
29 During its review of PGE's amendment request, the Department requested that PGE  
30 provide further information to demonstrate compliance with the Council's Fish and  
31 Wildlife Habitat Standard. The Department, ODFW, and PGE acknowledged that the  
32 energy facility may adversely affect the use of the new nest site by bald eagles during the  
33 period of construction. This would constitute a short-term (two to three nesting seasons)  
34 loss of habitat quality. The overall goal of the ODFW Fish and Wildlife Habitat  
35 Mitigation Policy is to avoid long-term or permanent loss of fish or wildlife habitat. The  
36 policy recognizes and allows for some short-term loss. The Department and ODFW  
37 recommended that the Council find that in this situation, the loss of three nesting seasons  
38 would not be a long-term loss and would not be inconsistent with the ODFW habitat  
39 mitigation policy.

40  
41 The Department, ODFW and PGE also agreed that it is not clear if operation would  
42 adversely affect use of the nest site over the long term. If operation does not adversely  
43 affect bald eagle nesting, the loss of habitat quality would be short-term and the facility  
44 would meet the ODFW goal of no net loss of habitat quantity or quality. However, if the  
45 operation of the facility were to interfere with bald eagle nesting at this nest site over a  
46 long period (many nesting seasons), this would constitute a loss of habitat quality and

1 would require mitigation consistent with the requirements of the ODFW habitat mitigation  
2 policy at OAR 635-415-0025. For this reason, the ODFW recommended a new condition  
3 for the site certificate that addresses the Council's Fish and Wildlife Habitat Standard.  
4 PGE amended its request to include ODFW's proposed condition (see Section IV.A.12,  
5 proposed Condition D.8(7)). It requires the Certificate Holder to monitor the nest during  
6 the three complete nesting periods after beginning operation of the energy facility and to  
7 provide appropriate mitigation if monitoring shows that operation of the energy facility  
8 results in a loss of habitat quality.

9  
10 The Council finds that the potential loss of three bald eagle nesting seasons at this nest site  
11 as a result of project construction is not a long-term loss of habitat quality. The Council  
12 further finds that the long term effects of project operation on bald eagle nesting habitat are  
13 uncertain and the Council adopts a condition that provides for mitigation, if necessary, as  
14 stated in Section IV.A.12, above.

15  
16 The Council finds that with the conditions and the findings noted above, the amendment  
17 request meets the requirements of Fish and Wildlife Habitat Standard, OAR 345-022-0060.

18  
19 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
20 requirements of OAR 345-022-0060.

21  
22 **I. Threatened and Endangered Species Standard, OAR 345-022-0070**

23 To issue a site certificate, the Council, after consultation with appropriate  
24 state agencies, must find that:

- 25 (1) For plant species that the Oregon Department of Agriculture has listed  
26 as threatened or endangered under ORS 564.105(2), the design,  
27 construction, operation and retirement of the proposed facility, taking  
28 into account mitigation:  
29 (a) Are consistent with the protection and conservation program, if  
30 any, that the Oregon Department of Agriculture has adopted  
31 under ORS 564.105(3); or  
32 (b) If the Oregon Department of Agriculture has not adopted a  
33 protection and conservation program, are not likely to cause a  
34 significant reduction in the likelihood of survival or recovery of  
35 the species; and  
36 (2) For wildlife species that the Oregon Fish and Wildlife Commission  
37 has listed as threatened or endangered under ORS 496.172(2), the  
38 design, construction, operation and retirement of the proposed facility,  
39 taking into account mitigation, are not likely to cause a significant  
40 reduction in the likelihood of survival or recovery of the species.

41  
42 **Discussion.** The utilities and above-ground structures proposed by this amendment would  
43 be located within the energy facility site and roadway and water line corridors  
44 contemplated for development and analyzed in Exhibit Q of the ASC for impacts on listed  
45 plant and wildlife species. In Section D.9 of the Final Order of November 8, 2002, the  
46 Council found that, with the imposition of the eight conditions in Section D.9 of the Site

1 Certificate, the facility will not have an adverse impact on any threatened, endangered, or  
2 candidate plant species or their habitat.

3  
4 The conditions primarily regulate the construction of the transmission line; and, they are  
5 equally applicable to the minor realignments of the transmission line proposed in this  
6 request. The new laydown area northwest of the energy facility site, and the new  
7 structures and related corridor near the existing PGE intake structure, will not be located  
8 within area identified as Columbia white-tailed deer habitat on Figure Q-5.2 of the ASC  
9 (March 2002). Although the spoils disposal area would be located within deer habitat, the  
10 impact on habitat would be temporary as discussed in Exhibit P (Attachment 9), and PGE  
11 would revegetate the area to avoid any loss of habitat value.

12  
13 PGE requested one modified condition and one new condition. PGE requested that the  
14 Council modify Condition D.9(6) to allow construction activities during the peregrine  
15 falcon critical nesting period from January 1 to June 30 if those activities involve lower  
16 levels of visible activity. ODFW concurred with PGE's request, but recommended  
17 additions to the condition to address noise and to provide for monitoring and preparation of  
18 a contingency plan if the peregrine falcon pair's nesting activities are disturbed by  
19 construction of the transmission line terminus. PGE then amended its request to  
20 incorporate into the condition the changes that ODFW recommended. (See Section  
21 IV.A.14 and IV.B.4, above.)

22  
23 PGE also requested that the Council adopt a new Condition D.9(9) to require that the  
24 Certificate Holder protect a new bald eagle nest at the northwest tip (downstream end) of  
25 Crims Island by constructing and operating the energy facility consistent with the final  
26 Biological Opinion and Incidental Take Statement that will be issued by the U.S. Fish and  
27 Wildlife Service. The Department recommended a modification to the proposed condition  
28 to ensure that PGE obtains the Biological Opinion and Incidental Take Statement before  
29 undertaking construction during the nesting season. (See Section IVA.15 and IV.B.2,  
30 above) With these modified conditions, Council finds that the design, construction,  
31 operation and retirement of the energy facility would comply with the Threatened and  
32 Endangered Species standard.

33  
34 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
35 requirements of OAR 345-022-0070.

36  
37 **J. Scenic and Aesthetic Values Standard, OAR 345-022-0080**

38 (1) Except for facilities described in sections (2), to issue a site certificate, the  
39 Council must find that the design, construction, operation and retirement of  
40 the facility, taking into account mitigation, are not likely to result in  
41 significant adverse impact to scenic and aesthetic values identified as  
42 significant or important in applicable federal land management plans or in  
43 local land use plans in the analysis area described in the project order. \*\*\*  
44

45 **Discussion.** The impact of the facility on scenic and aesthetic values was addressed in  
46 Exhibit R of the ASC, and the additional structures proposed by PGE are within the

1 analysis area considered therein. In Section D.10 of the Final Order of November 8, 2004,  
2 the Council concluded that, with the imposition of the seven conditions set forth in Section  
3 D.10 of the Site Certificate, the energy facility would meet the Scenic and Aesthetic  
4 Values Standard. These conditions require the applicant to remove construction equipment  
5 following use; control dust during construction; shield lights to minimize off-site glare;  
6 submit a lighting plan to Columbia County prior to construction; use low-glare paint  
7 colors; and revegetate any undeveloped areas disturbed by the construction of related and  
8 supporting pipelines.

9  
10 Federal land management plans: There are no applicable federal land management plans  
11 pertaining to the areas of the proposed facility modifications.

12  
13 Local land use plans: As discussed in the Final Order of November 8, 2004, the Columbia  
14 County Comprehensive Plan identifies one scenic resource within the analysis area that  
15 could be affected by the proposed energy facility, i.e., U.S. Highway 30 between Deer  
16 Island and Rainier, Oregon. The modifications proposed in this request do not alter the  
17 impacts of the transmission line in the vicinity of that scenic resource.

18  
19 Key observation points: The ASC used key observation points (“KOPs”) as an approach  
20 to analyzing visual impacts of the energy facility and its related or supporting facilities.  
21 KOPs are public viewing locations identified as most representative of visually sensitive  
22 locations for viewing the proposed energy facility. KOPs are attractants for drawing the  
23 viewer and focusing attention on a view or vista. PGE’s analysis of KOPs included  
24 identification of potential viewing locations using available mapping and then field-testing  
25 each of those locations through visitation and photo documentation. PGE identified and  
26 evaluated KOPs for visual sensitivity.

27  
28 For the energy facility site, KOPs on the Oregon side of the Columbia River occur along  
29 Mayger Road, Kallunki Road, and U.S. Highway 30. KOPs on the Washington side of the  
30 Columbia River occur along State Route 4 (“SR 4”) and pull-offs along SR 4. The  
31 proposed spoils disposal site and construction staging and laydown area would be  
32 temporarily disturbed during construction of the energy facility, but would be revegetated  
33 in accordance with the requirements of the Site Certificate. Two small structures would be  
34 constructed near the existing PGE water intake structure on Bradbury Slough. The impacts  
35 of these two structures, which total only about 750 square feet in area, would be minimal  
36 due to their small size and the established industrial nature of the area.

37  
38 The ASC indicated that a number of road crossings are important KOPs for the proposed  
39 transmission line. However, only the proposed realignment of the transmission line in the  
40 vicinity of the Allston Substation would be close to a road. As proposed by PGE, the  
41 alignment for Alternative 4 would be moved to the east, along either the west or east side  
42 of Heath Road. Views in the area of Allston Substation are of low sensitivity due to the  
43 large number of transmission lines already in the area.

1 The Council finds that the new and modified facilities comply with the Scenic and  
2 Aesthetic Values Standard, and no additional conditions beyond those currently set forth in  
3 Section D.10 are necessary.

4  
5 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
6 requirements of OAR 345-022-0080.

7  
8 **K. Historic, Cultural, and Archeological Resources Standard, OAR 345-022-0090**

- 9 (1) Except for facilities described in sections (2) and (3), to issue a site  
10 certificate, the Council must find that the construction, operation and  
11 retirement of the facility, taking into account mitigation, are not likely to  
12 result in significant adverse impacts to:
- 13 (a) Historic, cultural or archaeological resources that have been listed  
14 on, or would likely be listed on the National Register of Historic  
15 Places;
  - 16 (b) For a facility on private land, archaeological objects, as defined in  
17 ORS 358.905(1)(a), or archaeological sites, as defined in ORS  
18 358.905(1)(c); and
  - 19 (c) For a facility on public land, archaeological sites, as defined in ORS  
20 358.905(1)(c). \* \* \*

21  
22 **Discussion.** Historic, cultural and archaeological resources within the vicinity of the  
23 energy facility area were addressed in Exhibit S of the ASC. In Section D.11 of the Final  
24 Order, the Council found that, with the imposition of the conditions in Section D.11 of the  
25 Site Certificate, the construction of the energy facility and its related or supporting  
26 facilities would have no effect on identified cultural resources. The new laydown area,  
27 northwest of the energy facility site, will not involve any disturbance to the subsurface.  
28 Similarly, the spoils disposal area would be used for disposal of excess soil from  
29 construction. No excavation would occur that could disturb subsurface cultural or  
30 archaeological resources, if present. The two new structures (for chlorination and  
31 electrical controls) near the existing PGE water intake structure would be located in a  
32 previously disturbed area that would also be used for construction staging and laydown.

33  
34 In Ordinance No. 2003-6, Columbia County adopted a new inventory of significant  
35 historical sites as part of Article XI of the County's Comprehensive Plan. In addition, the  
36 Ordinance includes the results of the "Columbia County Intensive-Level Historic Survey,"  
37 which includes the inventoried sites as well as others determined not to be significant. The  
38 facility modifications proposed in PGE's amendment request, including the minor  
39 alterations in transmission alignments, would not affect any historic resources identified in  
40 Article XI or in the broader survey.

41  
42 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
43 requirements of OAR 345-022-0090.

44  
45 **L. Recreation Standard, OAR 345-022-0100**

- 1 (1) Except for facilities described in section (2), to issue a site certificate, the Council  
2 must find that the design, construction and operation of a facility, taking into  
3 account mitigation, are not likely to result in a significant adverse impact to  
4 important recreational opportunities in the analysis area as described in the project  
5 order. The Council shall consider the following factors in judging the importance  
6 of a recreational opportunity:  
7 (a) Any special designation or management of the location;  
8 (b) The degree of demand;  
9 (c) Outstanding or unusual qualities;  
10 (d) Availability or rareness;  
11 (e) Irreplaceability or irretrievability of the opportunity. \*\*\*  
12

13 **Discussion.** Recreational facilities and opportunities were described in Exhibit T of the  
14 ASC. The new or modified facilities proposed in this amendment request would be within  
15 the 5-mile analysis area described therein. In Section D.12 of the Final Order of  
16 November 8, 2002, the Council found that the energy facility would not adversely affect  
17 recreational opportunities within a five-mile analysis area around the energy facility site  
18 and the transmission corridor.  
19

20 This amendment request proposed minor changes in the transmission alignment, all of  
21 which would be well within the analysis area considered in the ASC. The new laydown  
22 area and the spoils disposal area would be temporary disturbances on land zoned for  
23 industrial use. They would not affect recreational opportunities. The two new structures  
24 in the vicinity of the existing PGE water intake structure would occupy a combined area of  
25 about 750 square feet. They would not interfere with use of the Mayger Boat Ramp,  
26 owned and operated by ODFW, which is located to the southeast on Bradbury Slough.  
27

28 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
29 requirements of OAR 345-022-0100.  
30

31 **M. Public Services Standard, OAR 345-022-0110**

- 32 (1) Except for facilities described in sections (2) and (3), to issue a site  
33 certificate, the Council must find that the construction and operation of  
34 the facility, taking into account mitigation, are not likely to result in  
35 significant adverse impact to the ability of public and private providers  
36 within the analysis area described in the project order to provide:  
37 sewers and sewage treatment, water, storm water drainage, solid waste  
38 management, housing, traffic safety, police and fire protection, health  
39 care and schools.\*\*\*  
40

41 **Discussion.** All of the proposed new or modified aspects of the facility would be within  
42 the public services analysis area in Exhibit U of the ASC. In Section D.13 of the Final  
43 Order of November 8, 2002, the Council found that, with the imposition of the ten  
44 conditions of approval set forth in Section D.13 of the Site Certificate, the facility would  
45 not adversely affect the listed public services. The new laydown area, spoils disposal area,  
46 minor transmission realignment, and new upland structures at the existing water intake

1 facility would not alter the operation of the energy facility in a manner that would alter the  
2 impact of the facility on the public services.

3  
4 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
5 requirements of OAR 345-022-0110.

6  
7 **N. Waste Minimization Standard, OAR 345-022-0120**

8 (1) Except for facilities described in sections (2) and (3), to issue a site  
9 certificate, the Council must find that, to the extent reasonably practicable:

10 (a) The applicant's solid waste and wastewater plans are likely to  
11 minimize generation of solid waste and wastewater in the  
12 construction, operation, and retirement of the facility, and when  
13 solid waste or wastewater is generated, to result in recycling and  
14 reuse of such wastes;

15 (b) The applicant's plans to manage the accumulation, storage, disposal  
16 and transportation of waste generated by the construction and  
17 operation of the facility are likely to result in minimal adverse  
18 impact on surrounding and adjacent areas. \*\*\*

19  
20 **Discussion.** The Waste Minimization Standard was addressed in Exhibit V of the ASC and  
21 in Section D.14 of the Final Order of November 8, 2004. The Council imposed five  
22 conditions in Section D.14 of the Site Certificate to ensure compliance with the waste  
23 minimization standard.

24  
25 The proposed amendments would not alter the applicant's solid waste and wastewater  
26 generation and disposal plans. The spoils disposal area would be used solely for disposal  
27 of clean excess soil from the construction of the energy facility, which is not considered  
28 "solid waste" under Department of Environmental Quality rules. Moreover, the spoils  
29 disposal area would be reclaimed by revegetating the area when disposal activities are  
30 complete. Therefore, Council finds that the original findings are sufficient to demonstrate  
31 compliance with the Waste Minimization Standard and no additional conditions are  
32 necessary to maintain compliance.

33  
34 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
35 requirements of OAR 345-022-0120.

36  
37 **O. Carbon Dioxide Standard**  
38 **Standard for Base Load Gas Plants, OAR 345-024-0550**

39 To issue a site certificate for a base load gas plant, the Council must find  
40 that the net carbon dioxide emissions rate of the proposed facility does not  
41 exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric  
42 power output, with carbon dioxide emissions and net electric power output  
43 measured on a new and clean basis. For a base load gas plant designed with  
44 power or augmentation technology as defined in OAR 345-001-0010, the  
45 Council shall apply the standard for a non-base load power plant, as  
46 described in OAR 345-024-0590, to the incremental carbon dioxide

1 emissions from the designed operation of the power augmentation  
2 technology.\*\*\*  
3

4 **Discussion.** PGE’s proposed changes do not affect compliance with the Council’s Carbon  
5 Dioxide Standard, set forth at OAR 345-024-0500 through 345-024-0720. Unrelated to  
6 this amendment request, on December 2, 2004, the Council approved a revised form of the  
7 Memorandum of Understanding (“MOU”) between the Certificate Holder and the Climate  
8 Trust for implementation of the monetary path, including a revised form of a letter of  
9 credit. The Council attaches the revised MOU to the Site Certificate as “Attachment  
10 A-Optional”.

11  
12 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
13 requirements of OAR 345-024-0550 through -0720.

14  
15 **P. Noise OAR 340-035-0035(1)(b)(B)**

16 The Council applies and enforces the Department of Environmental Quality’s (“DEQ”)  
17 noise standards for energy facilities under its jurisdiction. The DEQ noise regulations for  
18 industrial and commercial noise sources apply to the Project. Under the DEQ regulations,  
19 the generating facility would be located on a “previously unused industrial site” and  
20 according to the regulations:

21  
22 No person owning or controlling a new industrial or commercial noise  
23 source located on a previously unused industrial or commercial site shall  
24 cause or permit the operation of that noise source if the noise levels  
25 generated or indirectly caused by that noise source increase the ambient  
26 statistical noise levels, L<sub>10</sub> or L<sub>50</sub>, by more than 10 dBA in any one hour, or  
27 exceed the levels specified in Table 8, as measured at an appropriate  
28 measurement point. OAR 340-035-0035(1)(b)(B)(i).

29  
30 **Discussion.** DEQ noise regulations for industrial and commercial noise sources apply to  
31 the energy facility. The alterations to the energy facility that PGE proposes would not  
32 alter operational noise levels at the facility. The Council finds that the findings in the Final  
33 Orders demonstrate that the energy facility would meet the DEQ noise standards  
34 applicable to the facility, OAR 340-035-0035(1)(b)(B)(i).

35  
36 **Conclusion.** The Council finds that the proposed changes to the facility meet the  
37 requirements of OAR 340-035-0035(1)(b)(B)(i).

38  
39 **Q. Wetlands, OAR 345-022-0000**

40 Pursuant to OAR 345-022-0000, the Council must determine compliance with applicable  
41 statutes, ORS 196.800-.990, and applicable Department of State Lands (“DSL”) regulations,  
42 OAR 141-085-0005 *et seq.* relating to fill and other operations taking place  
43 within wetlands. These regulations require persons to obtain a removal/fill permit if more  
44 than 50 cubic yards of material will be removed or altered within “waters of the state.”  
45 The overall standard to be considered in granting a removal/fill permit is whether the  
46 proposed activity would not “unreasonably interfere with the paramount policy of this state

1 to preserve the use of its waters for navigation, fishing and public recreation.”  
2 ORS 196.825(2).

3  
4 **Discussion.** To determine whether the facility changes proposed in its amendment request  
5 would impact any jurisdictional wetlands, PGE conducted on-site delineation field studies  
6 of the areas to be impacted by the new or relocated facilities. The delineation, identified as  
7 Appendix J-1 to the request (Attachment 8), shows that the proposed new transmission  
8 tower locations east of Heath Road near the Allston Substation and at Trojan Heights and  
9 the spoils disposal area would create no additional impacts on wetlands. The relocation of  
10 a transmission tower south of the Allston Substation would reduce wetland impacts.

11  
12 Wetlands are present west of Heath Road. If the transmission alignment in Alternative 4 is  
13 moved east, but remains on the west side of Heath Road (Figure C-4), PGE would locate  
14 the transmission towers to avoid wetlands, as indicated in its revised Figure J-1.10, which  
15 it submitted on December 16, 2004.

16  
17 The locations for the other facilities, including the new laydown area northwest of the  
18 energy facility site, and the chlorination and electrical control buildings near the existing  
19 PGE water intake structure, were delineated in the ASC (Figure J-1.4, ASC, March 2002).  
20 No wetlands are present in those areas.

21  
22 The spoils disposal area would be immediately adjacent to delineated wetlands, as shown  
23 on revised Figure J-1.12 of December 2004. Due to the proximity to wetlands, PGE  
24 proposed a new Condition E.1.b(3) to require it clearly stake the wetland boundary before  
25 any disturbance, including disposal of soil, in the spoils disposal area, and that the staking  
26 be left in place until all soil disturbing activity has been completed.

27  
28 The approved boundary of the energy facility includes a small encroachment into  
29 wetland 4 along the southeastern border of the energy facility site adjacent to the  
30 switchyard. The Certificate Holder is required to provide mitigation for that impact on the  
31 wetland, along with other approved impacts pursuant to the Removal/Fill permit that the  
32 Council approved as Attachment C to the Site Certificate. In a letter dated December 9,  
33 2004, PGE indicated that it had reduced the size of the switchyard area. Therefore, the  
34 energy facility site would not impact that edge of the wetland. Nevertheless, PGE did not  
35 request a reduction in its wetland mitigation area. Construction activity would still occur  
36 in the vicinity of the wetland in that area. The Council expands that condition to cover  
37 staking wetland 4 in the vicinity of the energy facility and the new construction  
38 laydown/staging areas. (See Section IV.A.17 and IV.B.5.)

39  
40 In a letter dated December 16, 2004, Dana Field, Department of State Lands, concurred  
41 with the wetland delineations, as they were modified during the review.

42  
43 **Conclusion.** The Council finds that approval of this amendment request will satisfy the  
44 Council’s obligation to determine compliance with DSL removal/fill permit requirements.

45  
46 **R. Public Health and Safety, ORS 469.401(2)**

1 The Council is required to impose conditions in the site certificate for the protection of  
2 public health and safety.

3  
4 **Discussion.** In Section E.1.c of the Final Order of November 8, 2002, the Council found  
5 that the facility, if designed per the proposed conditions, will protect public health and  
6 safety. The subject conditions primarily govern the design and placement of the  
7 transmission lines to minimize alternating current electric fields and induced currents.  
8 Pursuant to the Final Order on Request for Amendment No. One, dated December 5, 2003,  
9 the Council amended Conditions 2, 3, 6, 7, and 8 of Section E.1.c. of the Site Certificate to  
10 reference the new backup electricity line. Although this amendment request would slightly  
11 alter transmission alignments, it would not add additional transmission lines. With the  
12 conditions in the Site Certificate, the Council's existing findings in Section E.1.c of the  
13 Final Order of November 8, 2002, are sufficient to demonstrate compliance with the Public  
14 Health and Safety standard.

15  
16 **Conclusion.** The Council finds that the proposed changes to the facility continue to meet  
17 the Council's conditions that protect public health and safety, pursuant to ORS 469.401(2).  
18

19 **S. Water Pollution Control Facilities Permit**

20 The development of an onsite sewage treatment system incorporating a septic tank, dosing  
21 tank, and bottomless sand filter is considered a form of wastewater discharge that requires  
22 a Water Pollution Control Facilities ("WPCF") permit from DEQ. The WPCF permit is a  
23 state level permit that falls under Council jurisdiction. Pursuant to ORS 469.401, the  
24 Council determined in its Final Order when adopting the Site Certificate that DEQ should  
25 issue the WPCF permit. The Council finds that the proposed amendments would have no  
26 impact on compliance with the Water Pollution Control Facilities permit.  
27

28 **Conclusion.** The Council finds that the proposed changes to the facility continue to meet  
29 the Council's conditions of the Water Pollution Control Facilities permit, pursuant to ORS  
30 469.401.  
31

32 **VI. Conclusions**

33 The Council finds that the actions in the Certificate Holder's request are consistent with  
34 current Council rules, with other applicable statutes and rules, and with statewide land use  
35 planning goals and would not cause a significant adverse impact to public health and safety  
36 or the environment. In preparing this proposed order, the Council limited its consideration  
37 to the effects that may be produced by the proposed changes to the facility site as described  
38 in the Certificate Holder's Request for Third Amendment to the Site Certificate for the Port  
39 Westward Generating Project, as amended. In considering those effects, the Council  
40 reviewed state statutes, administrative rules, and local government ordinances.  
41

42 Based on the above findings, the Council concludes that it should amend the Second  
43 Amended Site Certificate for the Port Westward Generating Project as the Certificate  
44 Holder requests with modifications to the conditions as noted above in Section IV.  
45





**ATTACHMENT**

**THIRD AMENDED  
SITE CERTIFICATE**

**FOR THE**

**PORT WESTWARD  
GENERATING PROJECT**

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