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THERMAL POWER PLANT
AMENDED SITE CERTIFICATE

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for the
HERMISTON GENERATING PROJECT

(includes amendment No. 1 (August 12, 1994), No. 2 (May 10, 1996),
and partial assignment No. 1 (July 23, 1996))

14 This Site Certificate is made and entered into in the manner provided by ORS Chapter 469, as
15 amended by Oregon Laws, 1993, Senate Bill 1016, by and between the State of Oregon (State), acting
16 by and through its Energy Facility Siting Council (EFSC), PacifiCorp, an Oregon corporation
17 (PacifiCorp), and Hermiston Generating Company, L.P. (HGC), a Delaware limited partnership. As
18 used in this Site Certificate "Holder" means HGC and PacifiCorp, or HGC or PacifiCorp, as the
19 context requires. It is the intent of the parties that HGC and PacifiCorp be jointly and severally
20 responsible for compliance with all conditions in this Site Certificate.
21

22 **I. SITE CERTIFICATION**

- 23
24 A. To the extent authorized by State law and subject to those warranties and conditions set
25 forth herein, the State approves and authorizes the construction, operation and
26 retirement by Holder of a natural gas-fired combustion turbine energy facility, together
27 with certain related or supporting facilities, at the site near Hermiston in Umatilla
28 County, Oregon, in the manner described in Holder's application for site certificate
29 (ASC). "Facility", as used in this Site Certificate, consists of the energy facility and
30 the related or supporting facilities described in Holder's ASC, except where otherwise
31 stated or where the context clearly indicates otherwise. As used in this Site Certificate,
32 the "application for site certificate" or the ASC, includes those changes and/or additions
33 to the Facility described in: (a) Holder's Request for Amendment No. 1, dated June
34 3, 1994, attached to the First Amendment as Exhibit 1; (b) in Holder's Petition to
35 Apply Subsequent Rules and Request for Amendment No. 2, dated January 19, 1996;
36 and (c) Holder's Request for Partial Assignment, dated April 26, 1996. The facts,
37 reasoning, conclusions and conditions relied on for approval are set out in EFSC's final
38 orders dated March 11, 1994, August 12, 1994, May 10, 1996, and July 23, 1996,
39 which by this reference are incorporated herein.
40

41 Subject to the conditions herein, this certificate binds the State and all counties, cities
42 and political subdivisions in this State as to the approval of the site and the construction,
43 operation and retirement of the facility, as to matters that are included in and governed
44 by this Site Certificate.
45

1 B. Each affected state agency, county, city and political subdivision with authority to issue
2 a permit, license or other approval addressed in or governed by the Site Certificate or
3 EFSC's final order shall, upon submission by Holder of the proper application and
4 payment of the proper fees, issue such permit, license or other approval without hearing
5 or other proceeding, subject only to conditions set forth in the Site Certificate. Each
6 agency that issues a permit, license or other approval to Holder shall continue to
7 exercise enforcement authority over such permit, license or other approval.
8

9 For a permit, license or other approval addressed in the Site Certificate, Holder shall
10 comply with applicable state and federal laws adopted in the future to the extent that
11 such compliance is required under the respective state agency statutes and rules.
12

13 C. Both the State and Holder shall abide by local ordinances and state law and the rules
14 of EFSC in effect on the date the Site Certificate is executed. The EFSC rules in effect
15 on the date the Site Certificate is executed are attached as Exhibit C. In addition, upon
16 a clear showing of a significant threat to the public health, safety or the environment
17 that requires application of later-adopted laws or rules, EFSC may require compliance
18 with such later-adopted laws or rules.
19

20 II. DESCRIPTION OF SITE AND ENERGY FACILITY

21 A. Description of Site

22 The site where the facility is to be constructed and operated includes the following (as more
23 particularly described in Holder's ASC):
24

25
26
27 1. **Energy Facility:** The energy facility will be constructed on a site containing
28 approximately thirteen acres located approximately 3 miles southwest of Hermiston,
29 Umatilla County, Oregon. The site is in the northwest quarter of Section 30,
30 Township 4 North, Range 28 East, Willamette Meridian. The location of the
31 energy facility is shown on Figures C-1a of the ASC and, with more particularity,
32 on Figure B-2 of the amendment to the application (dated December 24, 1993).
33 Figures C-1a and B-2 are by this reference is incorporated herein.
34

35 2. **Related or Supporting Facilities.**

36
37 a. **Transmission Line Right of Way:** The right-of-way for the 230 kV
38 transmission line delivering electricity from the energy facility to Bonneville
39 Power Administration's McNary Substation is located entirely within Umatilla
40 County. A portion of the right-of-way is located within the City of Umatilla.
41 The general location of the right-of-way is shown in Figure C-3 of the ASC.
42 For approximately one and one-half miles, the right-of-way consists of two
43 alternate alignments. These two alignments are shown in Figure A of the
44 amendment to the application (dated December 24, 1993). Figures C-3 and
45 A are by this reference incorporated herein.

- 1 **b. Gas Pipeline Right of Way:** The right-of-way for the gas pipeline is
2 located entirely within Umatilla County. The right-of-way is shown in Figure
3 C-4 of the ASC, and by this reference is incorporated herein.
4

5 **B. Description of Facility**
6

7 The facility includes the following (as more particularly described in Holder's ASC):
8

- 9 **1. Energy Facility:** The energy facility is a combustion turbine/combined cycle
10 electric power plant fueled by natural gas. It will generate electricity for sale to
11 energy suppliers operating in the Pacific Northwest Region, as defined in 16 USC
12 839a. At annual average site conditions, net of auxiliary loads and assuming no
13 process steam supply, the energy facility will have a nominal electric generating
14 capacity of 474.2 MW.
15

16 The energy facility may supply process steam to a nearby potato processing facility
17 owned by Lamb-Weston, Inc.
18

19 The power plant consists of two units, each of which is made up of a combustion
20 turbine generator, a heat recovery steam generator, a condenser, a steam turbine,
21 a mechanical induced draft evaporative cooling tower, an air compressor system,
22 an emission stack, and miscellaneous supporting equipment and improvements.
23 Facilities common to both units include a maintenance/warehouse, a
24 control/administration building, zero discharge facilities, stormwater detention
25 facilities, paved roads and a parking area. A raw water storage tank may also be
26 included.
27

28 **2. Related or Supporting Facilities:**
29

- 30 **a. Transmission Line --** A 230 kV electric transmission line will carry
31 electricity from the energy facility to Bonneville Power Administration's
32 McNary Substation in Umatilla County. Almost all of the line will be
33 constructed as an upgrade of an existing 115kV line owned by the Umatilla
34 Electric Cooperative Association. For approximately one and one-half miles,
35 the right-of-way will be in one of two alternate alignments. These two
36 alignments are shown in Figure A of the amendment to the application (dated
37 December 24, 1993). In addition, approximately one-quarter mile of new
38 right of way is required at the northern end of the line where it connects to
39 the McNary Substation.
40

- 41 **b. Gas Pipeline --** A buried pipeline will carry natural gas from an interstate
42 gas transmission line owned by Pacific Gas Transmission Company to the
43 energy facility. The pipeline will be less than five miles in length.
44

45 In the event of a conflict between the descriptions of the facility, or the design, construction,
46 operation, or retirement of the facility, in this Site Certificate (as amended), EFSC's final

1 order, or Holder's ASC, the following priority of construction shall apply to determine which
2 document controls: first, this Site Certificate (as amended); second, EFSC's final orders;
3 third, Holder's ASC.
4

5 **III. WARRANTIES**
6

7 In consideration of the execution of this Site Certificate by the EFSC, and pursuant to Oregon
8 Laws 1993, Senate Bill 1016, Section 11(3), Holder makes the following warranties:
9

10 **A. Financial Ability**
11

12 Holder warrants that it has reasonable assurance of obtaining the funds necessary to cover
13 the estimated construction, operating and retirement costs for the design lifetime of the
14 energy facility including related fuel-cycle costs, and that it will be capable of providing
15 funds as needed to construct, operate and retire the energy facility without violating its
16 bond indenture provisions, articles of incorporation, common stock covenants or similar
17 agreements.
18

19 **B. Ability to Construct and Operate**
20

21 Holder warrants that it has the ability to take those actions necessary to ensure that the
22 facility is constructed, operated and retired substantially as described in this Site
23 Certificate and in the orders approving the Site Certificate (including all amendments).
24

25 **C. Completion of Construction**
26

27 Holder warrants that completion of construction of the facility, which shall be defined as
28 the commercial operation date of the energy facility, shall occur within five years from
29 the effective date of this Site Certificate and EFSC's final order (the "effective date").
30 For the purposes of this warranty, the effective date shall be deemed to be the date any
31 judicial review of EFSC's final order or of this Site Certificate is completed, including
32 any proceedings on remand to EFSC.
33

34 **D. Protection of the Public Health and Safety**
35

36 Holder warrants that it will take those actions, including compliance with all local, state
37 and Federal ordinances, statutes, rules and regulations in effect on the date this Site
38 Certificate is issued, necessary to ensure that construction, operation and retirement of
39 the facility pose no significant danger to the public health and safety. For related and
40 supporting facilities that Holder is not constructing or operating, Holder shall use its best
41 efforts to require any third party constructing or operating such related and supporting
42 facilities to abide by the terms of this warranty.
43

1 **IV. CONDITIONS**

2
3 **A. Conditions Required by OAR Chapter 345, Division 27**

- 4
5 1. Holder shall design, construct, operate and retire the energy facility in accordance
6 with the requirements of the Oregon energy facility siting statutes, ORS 469.300
7 et seq., and the rules of OAR Chapter 345 applicable to the facility; all other
8 applicable Oregon statutes and rules implementing those statutes applicable to the
9 facility; and all applicable local ordinances.
10
- 11 2. The conditions in this Site Certificate may not be changed during the term of the
12 certificate except as provided in OAR 345-27-050 through OAR 345-27-080, and
13 OAR 345-27-095 (November 1995). Holder may request that amendments to
14 conditions be considered pursuant to the Division 27 rules in effect at the time the
15 amendment is filed. A request to have the amendment considered pursuant to a
16 later adopted version of Division 27 rules will be granted unless the EFSC finds
17 that applying the later-adopted rules would create a significant threat to public
18 health, safety or the environment.
19
- 20 3. Holder shall design, construct, operate and retire the facility substantially as
21 described in this Site Certificate (as amended) and the EFSC final orders approving
22 the Site Certificate and any amendments to the Site Certificate, which orders are
23 incorporated herein. Modifications or amendments to the design, construction,
24 operation or retirement of the facility shall be considered pursuant to OAR 345-27-
25 050 through 080 and 345-27-095 (November 1995). Notwithstanding the
26 foregoing, Holder may request that such modifications or amendments be
27 considered pursuant to the Division 27 rules in effect at the time the amendment is
28 filed. A request to have the amendment considered pursuant to a later adopted
29 version of Division 27 rules will be granted unless the EFSC finds that applying the
30 later-adopted rules would create a significant threat to public health, safety or the
31 environment.
32
- 33 4. This certificate shall expire at the end of the useful life of the energy facility.
34 Application for termination of the Site Certificate shall be made according to the
35 provisions of OAR 345-27-110.
36
- 37 5. Prior to commencing construction on any part of the facility, including clearing of
38 a right of way, except for the initial survey, Holder shall present evidence
39 acceptable to the EFSC that Holder has control of all lands on which clearing or
40 construction will occur. If an entity other than Holder will construct any related
41 or supporting facility, Holder shall submit to the EFSC evidence acceptable to the
42 EFSC that this other entity has control over all lands on which clearing or
43 construction will occur. Evidence acceptable to the EFSC shall include, but is not
44 limited to, a deed, option to purchase, lease, easement, or other similar binding
45 agreement.

- 1 6. Holder shall, prior to commencing construction of the facility, or a portion of the
2 facility, provide the EFSC with a copy of a firm power sales contract or contracts
3 demonstrating that 80% of the capacity from the facility, or that portion of the
4 facility which Holder proposes to construct, will be purchased by an energy
5 supplier or suppliers operating in the Pacific Northwest, as defined by 16 USC
6 Section 839a for a period of at least 10 years from the commercial operation date.
7
- 8 7. If Holder builds a visitors information center at the site, information regarding
9 conservation of energy and the means by which it may be accomplished shall be
10 included with any energy facility information provided.
11
- 12 8. Insofar as practicable, Holder shall restore vegetation and landscape portions of the
13 site disturbed by construction in a manner which is compatible with its
14 surroundings. Upon completion of construction, Holder shall dispose of all
15 temporary structures not required for future use and all used timber, brush, refuse
16 or flammable material resulting from the clearing of lands or from construction of
17 the facility.
18
- 19 9. Holder shall promptly inform the Oregon Office of Energy (OE), the Department
20 of Geology and Mineral Industries and the Water Resources Department if site
21 investigations or trenching reveal that conditions in the foundation rocks differ from
22 those previously described. The Office of Energy may require additional design
23 measures considered necessary based on such information.
24
- 25 10. Holder shall inform the Office of Energy, Department of Geology and Mineral
26 Industries and Water Resources Department of trenching project plans on a timely
27 basis so their representatives can inspect them. During construction, Holder shall
28 notify these agencies if shear zones, artesian aquifers, deformations or clastic dikes
29 are found near or beneath the site of the facility.
30
- 31 11. Holder shall prevent any condition from developing on the site that would preclude
32 restoring the site to a useful condition.
33
- 34 12. At least five years prior to energy facility retirement, Holder shall submit a
35 retirement plan to the EFSC for review and approval. The plan shall describe how
36 the site will be restored adequately to a useful condition, including options for post-
37 retirement land use, information on how impacts to fish, wildlife and the
38 environment will be minimized during the retirement process and measures to
39 protect the public against risk or danger resulting from post-retirement site
40 conditions. Holder shall restore the site to a useful condition following retirement.
41

1 **B. Conditions Related to EFSC Standards**

2
3 **Structural Standard**

4
5 (1) Prior to the start of construction, Holder shall conduct a detailed survey of the
6 energy facility site. The survey will include core drilling sufficient to learn: 1, the overburden soil
7 types and thicknesses under energy facility structures; 2, the depth and characterization of the bedrock
8 under the site; 3, if evidence of seismic faulting not considered in the application is present or if there
9 are indications that the seismic classification of the portion of the site containing the energy facility
10 is not correct in the application. The survey shall also characterize ground response to potential
11 seismic events. The survey shall be peer reviewed by the Oregon Department of Geology and Mineral
12 Industries or by a private qualified registered geologist that is independent from Holder and the
13 Holder's contractors and subcontractors. If a private geologist is used, the choice of peer reviewer
14 shall be approved by EFSC in consultation with the Oregon Department of Geology and Mineral
15 Industries.

16
17 (2) If the detailed survey reveals evidence that is not as described in the ASC, then
18 Holder shall revise the facility design parameters to comply with corresponding UBC requirements.
19 If pre-construction seismic analysis reveals features unique to the energy facility site that justify
20 enhanced seismic design, Holder shall design safety structures critical to public health or safety in
21 consultation with the BCA, subject to approval by EFSC. Critical structures include hazardous
22 material storage areas and control rooms.

23
24 (3) Except as provided for in condition 2 above, Holder shall design and construct the
25 proposed facility to be consistent with Seismic Zone 2B requirements, in compliance with the laws and
26 regulations administered by BCA.

27
28 (4) Holder shall place electrical transmission towers to avoid, to the greatest extent
29 possible given the existing UECA corridor, the narrow strip of alluvium along the Umatilla River that
30 may be subject to liquefaction. If this strip cannot be avoided, the transmission towers shall be
31 constructed so as to otherwise mitigate for the risk of liquefaction.

32
33 (5) Placement of electrical transmission towers will include setbacks from cut slopes
34 associated with the quarry east of the Umatilla River, along the electrical transmission line route.

35
36 (6) Topsoils and subsoils resulting from excavation for the gas pipeline should be
37 segregated and the topsoil restored to minimize impacts on soil fertility.

38
39 **Land Use Standard**

40
41 (1) Following issuance of the Site Certificate by the Energy Facility Siting Council, and
42 prior to commencing construction of the facility, Holder shall obtain all appropriate land use permits
43 and approvals and pay all required fees of Umatilla County and the City of Umatilla. Umatilla County
44 and the City of Umatilla shall continue to exercise enforcement authority over such land use permits
45 and approvals.

1 (2) Holder shall file with the Umatilla County Planning Department a landscaping plan
2 for the power plant prior to issuance of a building permit. The landscaping plan shall incorporate
3 native vegetation where feasible and shall provide screening and visual buffering for the power plant
4 and its parking and loading areas to the extent reasonably feasible.
5

6 (3) The power plant shall incorporate an on-site fire suppression system and shall be
7 constructed from fire retardant materials to the extent reasonably feasible. The power plant design
8 shall incorporate spill prevention and containment designs for the storage of all hazardous materials.
9 Compliance with all applicable fire suppression and hazardous material safety requirements shall be
10 established in consultation with the Hermiston Fire Department, the State Fire Marshall, and the
11 Building Codes Agency.
12

13 (4) Holder shall file a site plan with the County which shall consist of a map showing
14 the property lines, location of buildings, access road or roads and the names of the owner and
15 developer of the site of the energy facility. The site plan shall also show that county ordinances
16 related to parking and loading requirements, setbacks, signs, and vision clearance are satisfied. This
17 shall be submitted to the county prior to the county issuing the building permit.
18

19 (5) If Holder purchases all or any part of the site of the energy facility, Holder shall
20 file with the county an application for a minor partition in conformance with the information included
21 in the ASC and file and record a final plat in accordance with county ordinances.
22

23 (6) Prior to commencing construction of the energy facility, Holder shall submit a plan
24 acceptable to EFSC, in consultation with Umatilla County, for responding to an emergency at the
25 Umatilla Army Depot. The plan shall be developed in consultation with the Umatilla County Chemical
26 Stockpile Emergency Preparedness Program.
27

28 (7) With the exception of the alternate alignment described in Holder's amendment to
29 the application for site certificate (dated December 24, 1993), and the one-quarter mile section of new
30 right-of-way required immediately south of the McNary substation, the transmission line upgrade shall
31 be constructed substantially along the route of the existing UECA right-of-way. Any new right-of-way
32 required for the transmission line shall avoid populated areas to the extent practicable. Holder shall
33 configure the transmission lines to reduce EMF. Upon certification and throughout the construction
34 and operation of the facility, Holder shall provide on request by the public, information in Holder's
35 possession or publicly available related to EMF levels associated with the power plant and related
36 transmission lines.
37

38 (8) To minimize the impact on future development in the City of Umatilla, the
39 transmission line upgrade shall follow easements 60 feet from the centerline in either direction (120
40 feet total) except as necessary to comply with other federal, state, and local regulations or other Site
41 Certificate conditions.
42

43 (9) Holder shall take all reasonable precautions to minimize dust and noise during
44 construction.
45

1 (10) At the time of filing for the required city land use approval, Holder shall file a map
2 at a scale satisfactory to the city describing the transmission line corridor to allow the city to
3 appropriately depict the corridor on the official city zoning map.
4

5 **Organizational, Managerial and Technical Expertise Standard**
6

7 (1) Holder shall obtain all necessary state and local permits or approvals required for
8 the construction and operation of the facility. Said permits and approvals are listed in section (1) of
9 the Findings of Fact of EFSC's order (dated March 11, 1994).
10

11 (2) A quantity of water sufficient to supply the energy facility shall be applied to
12 beneficial use under the Port of Umatilla Water Right Permit Number 49497 by October 1, 1997,
13 unless the time limits for the permit are otherwise extended.
14

15 (3) Holder shall have a contract or other binding arrangement with the Port of Umatilla
16 for a quantity of water sufficient to supply the energy facility prior to commencement of construction.
17

18 **Financial Assurance Standard**
19

20 (1) Prior to commencement of construction of the facility and within a reasonable time
21 after they become available, Holder shall submit to the EFSC evidence that Holder has received
22 commitments for equity contributions and project financing with a repayment period not longer than
23 the duration of the power sales contract required under Condition (2) under the discussion on the Need
24 For Power standard, in amounts sufficient for construction and operation of the facility. Evidence may
25 be in the form of a certificate attached to the Site Certificate. This condition may be satisfied by
26 delivery to EFSC of an executed certificate substantially in the form attached hereto as Exhibit A.
27

28 (2) Within five days after the construction financial closing, Holder shall submit to
29 EFSC evidence that the equity contributions and loans have been made to Holder in amounts sufficient
30 for the construction and post-construction financing of the facility. This condition may be satisfied
31 by delivery to EFSC of an executed certificate substantially in the form attached hereto as Exhibit B.
32

33 (3) In the event that Holder desires to commence construction of the facility prior to
34 the construction financial closing, Holder shall submit to the State of Oregon, through EFSC, prior
35 to commencing construction, a bond or other comparable security in the amount of \$5 million, which
36 funds shall be used to restore the site (including the transmission line and gas pipeline rights-of-way)
37 if Holder fails to complete construction of the facility by the deadlines set forth in the Site Certificate.
38 The bond or other comparable security shall be issued by a surety acceptable to EFSC in a form
39 acceptable to EFSC. Construction activities along the transmission line and gas pipeline rights-of-way
40 undertaken prior to the construction financing closing shall, to the extent feasible, be minimized.
41

42 **General Standard of Review**
43

44 (1) Holder shall design, select, locate and/or orient components of the energy facility,
45 or use shielding, noise dampening or other techniques necessary to ensure that the operation of the

1 energy facility complies with OAR 340-35-035.
2

3 (2) Holder shall perform noise surveys in accordance with the requirements of OAR
4 340-35-035 within two months of: (a) the date the first unit commences operation; (b) the date first
5 unit is operating at full rated capacity; (c) the date the second unit commences operation; and (d) the
6 date both units are operating at full rated capacity. The unit operating conditions shall be documented
7 when measurements are made in accordance with subparts (a) and (c) above. When taking the
8 measurements required by (b) above, Holder shall conduct the surveys with the operating unit
9 operating at within ten percent of rated power. When taking the measurements required by (d) above,
10 Holder shall conduct the surveys with both units operating at within ten percent of rated power.
11

12 (3) During construction, and operation of the facility, Holder shall make information
13 in Holder's possession about the noise levels generated by the facility available to the public. In
14 selecting sensitive receptors for the noise surveys and analysis, Holder shall comply with applicable
15 DEQ rules and consider all noise sensitive properties within one-half mile of the energy facility (the
16 impact area).
17

18 (4) Holder shall consult with Umatilla County and the City of Umatilla and with
19 neighbors to the energy facility site to minimize the impacts of construction noise.
20

21 Fish and Wildlife Standard

22

23 (1) Areas disturbed by construction of the power plant, gas pipeline and transmission
24 line shall be revegetated upon completion of construction. Revegetation shall emphasize the use of
25 native species.
26

27 (2) If feasible, Holder shall schedule the construction of the gas pipeline and
28 transmission line to occur outside the nesting season for the state sensitive species identified in the
29 Woodward-Clyde field surveys (mid-April to August 1). These are: the long billed curlew (*Numenius*
30 *americanus*), Swainson's Hawk (*Buteo swainsonii*), the Grasshopper sparrow (*Ammodramus*
31 *savannarum*), and the Bank swallow (*Riparia riparia*). If Holder cannot schedule construction activities
32 outside the nesting season, pre-construction biological surveys shall be conducted at the energy facility
33 site, along the affected portion of the transmission line or gas pipeline right-of-way to identify location
34 of nest sites. If the surveys do not locate any nest sites of the state sensitive species named above,
35 construction may proceed. If the surveys do locate nest sites, Holder shall submit to EFSC mitigation
36 plans acceptable to EFSC in consultation with ODFW. Holder shall not commence construction in the
37 area of the identified nest sites until EFSC, in consultation with ODFW, has approved the mitigation
38 plan. EFSC will make every reasonable effort to review the plans, consult with ODFW, and revise
39 or approve the plans as quickly as possible.
40

41 (3) The transmission line shall either span or otherwise avoid wetland areas. Poles shall
42 be set back from the Umatilla River as much as possible.
43

44 (4) Because of susceptibility of soils in the project area to wind erosion, precautions
45 will be taken during construction to minimize erosion. This shall include watering of the site and

1 pipeline access road and/or use of dust palliatives.
2

3 (5) Holder shall notify the Northeast Regional office of the Oregon Department of Fish
4 and Wildlife at least one week before the start of construction for the power plant, transmission line
5 or pipeline.

6 (6) If appropriate, topsoils and subsoils should be segregated during excavation for the
7 pipeline to minimize impacts on soil fertility.
8

9 (7) Holder shall consult with the Office of Energy and ODFW on any mitigation
10 because of water withdrawal which is provided according to the terms of the settlement agreement with
11 Columbia Basin Institute.
12

13 Threatened or Endangered Species Standard 14

15 (1) Raptor protection shall be employed in the design and construction of the
16 transmission towers according to the methods described by Olendorff et. al. 1981. All energized
17 facilities shall be designed with either a minimum separation of nine feet, or other measures to reduce
18 the potential for electrocution of raptors or other birds.
19

20 (2) If construction of the transmission line occurs during the spring growing season for
21 Columbia Milkvetch (*Astragalus succumbens*), any population of the plant within 50 feet of the
22 proposed transmission line poles shall be flagged and avoided by construction activities.
23

24 Scenic and Aesthetic Standard 25

26 (1) To minimize visual intrusion caused by the stacks, the stacks shall be painted in a
27 matte finished neutral color to minimize the potential for glare caused by reflective surfaces. Colors
28 shall be chosen to blend with the surrounding area.
29

30 (2) Landscaping shall be used to screen the energy facility from the nearest residence
31 and roadways to the extent reasonably feasible. Shrubbery and trees planted along the perimeter of
32 the energy facility site and other landscaping shall be well-maintained and include low-maintenance
33 and indigenous plants.
34

35 (3) To minimize project visibility at night, outdoor lighting shall be limited to the extent
36 necessary to maintain safety conditions.
37

38 Historic, Cultural and Archaeological Standard 39

40 (1) Holder shall consult with the Confederated Tribes of the Umatilla Indian Reservation
41 (CTUIR) before commencing construction. Holder shall provide the CTUIR with an opportunity to
42 conduct a review of the oral history of the tribes. The purpose of the consultation and review is to
43 identify areas having a high potential for cultural resources within the impact area. If deemed
44 necessary by the CTUIR based on the oral history review, Holder shall conduct additional pre-
45 construction field surveys in cooperation with the CTUIR.

1 (2) Holder shall notify CTUIR before starting construction and shall provide the
2 opportunity for a CTUIR representative, knowledgeable in cultural resources of the area, to be
3 available for on-site monitoring during construction activities.
4

5 (3) If cultural resources are discovered during project construction or construction-
6 related activities, Holder shall stop all work in the immediate area of the find. Holder shall consult
7 with the CTUIR and SHPO. Holder shall not restart work in the affected area until CTUIR or SHPO
8 have concurred that Holder has identified actions to minimize or avoid further impacts.
9

10 (4) Holder shall take all reasonable steps to avoid disturbance of the West Extension
11 Irrigation Canal during construction and operation of the transmission line by ensuring that
12 transmission towers/poles are placed away from the canal banks, and by avoiding any disturbance at
13 the canal crossing when electrical lines are strung.
14

15 (5) Holder shall consult with the irrigation district in which the canal is located before
16 construction or the upgrading of the transmission line in the area of the canal in order to learn whether
17 there are any applicable restrictions.
18

19 Socio-Economic Standard

20
21 (1) Holder shall make a good faith effort to hire most or all permanent workers for the
22 project from the local areas.
23

24 (2) Holder shall make a good faith effort to hire as many construction workers from
25 the local area as feasible, including the Tri-city area.
26

27 (3) Holder shall enter into an Irrevocable Consent Agreement (ICA) with Umatilla
28 County. The ICA will formally acknowledge that Holder agrees to waive its right to oppose the
29 formation and equitable funding of any Local Improvement District (LID) for that portion of Westland
30 Road fronting the power plant property and extending south from the plant to its intersection with
31 Interstate Highway 84.
32

33 (4) Rail delivery shall be used to the extent practical to minimize heavy-haul truck trips
34 during construction.
35

36 (5) Traffic control measures shall be used during construction to reduce the impact of
37 traffic on Westland Road.
38

39 (6) Holder shall consult with local officials to provide assistance to construction workers
40 in need of housing and to minimize the impact on housing in the area.
41

42 Waste Minimization Standard

43
44 (1) Upon completion of construction, Holder shall dispose of all temporary structures
45 not required for future operation of the facility and all used timber, brush, refuse, or flammable

1 material resulting from clearing of lands or from construction of the facility.
2

3 (2) During construction of the facility, Holder shall identify means of minimizing waste
4 generation and shall recycle waste to the extent reasonably practicable. Holder shall also implement
5 a waste minimization and recycling program to remain in effect throughout the life of the Project.
6

7 (3) In the event a secondary cooling tower is used in place of a brine crystallizer,
8 Holder shall design the main cooling towers to limit drift to a rate of one-thousandth of one percent
9 (0.001%) of the circulating water, and to limit drift from the secondary cooling tower (if built) to a
10 rate of five- ten thousandths of one percent (0.0005%) of the circulating water. If a brine crystallizer
11 is used, Holder shall design the cooling towers to limit drift to less than four-thousandths of one
12 percent of the circulating water.
13

14 (4) In the event a secondary cooling tower is used in place of a brine crystallizer,
15 Holder shall operate the cooling tower circulating water system, the cooling towers and the circulating
16 water cleanup system to maintain the total dissolved solids in the main cooling tower circulating water
17 at less than five thousand two hundred parts per million (5,200 ppm) on an average annual basis, and
18 in the secondary cooling tower circulating water at less than one hundred thousand parts per million
19 (100,000 ppm) on an average annual basis. If a brine crystallizer is used, Holder shall operate the
20 cooling tower circulating water system, the cooling towers and the circulating water cleanup systems
21 to maintain the total dissolved solids in the circulating water at less than five thousand two hundred
22 parts per million (5,200 ppm) on an annual average basis.
23

24 Retirement Standard 25

26 (1) Holder shall prevent any condition from developing on the site during construction,
27 operation, and retirement that would preclude restoring the site to a useful condition. Holder shall
28 have satisfied this requirement by complying with all applicable federal, state, and local environmental
29 and land use statutes and ordinances, including all rules and regulations promulgated thereto and all
30 governmental approvals issued pursuant thereto.
31

32 (2) Starting with the tenth year after the first unit has commenced commercial
33 operation, Holder shall evaluate the expected useful life of the facility. If in any year Holder decides
34 that the life of the facility is expected to be five years or less from the date of the evaluation, then
35 Holder shall develop a plan for decommissioning the facility. The decommissioning plan shall include
36 the following elements: (a) the requirements and procedure for removing equipment and structures
37 from the portion of the site containing the energy facility; (b) any additional requirements and
38 procedures needed to restore the energy facility site to a useful condition; (c) a description of options
39 for post-retirement land use, information on how impacts to fish, wildlife and the environment will
40 be minimized during the retirement process and measures to protect the public against risk or danger
41 resulting from post-retirement site conditions; and (d) a description of how decommissioning will be
42 funded. Holder shall submit the plan to EFSC for approval within six months of deciding that the
43 facility is to be retired.
44

45 (3) In addition, starting with the fifth year after the first unit has commenced

1 commercial operation, Holder will establish the decommissioning fund and begin making annual
2 commitments to the fund in the amount of \$200,000 (in 1993 dollars) secured by a Letter of Credit,
3 performance bond, or other security reasonably acceptable to the EFSC. Such annual commitments
4 shall continue until the total security in the decommissioning fund reaches \$5 million (in 1993 dollars).
5 In the event the security in the decommissioning fund is less than \$5 million (in 1993 dollars) at the
6 time Holder notifies the EFSC of its intent to retire the energy facility (as specified in the preceding
7 condition), the annual commitments to the decommissioning fund shall be adjusted so as to assure that
8 the total security in the fund is \$5 million (in 1993 dollars) at the time of retirement. Holder shall
9 describe the status of the fund in the annual report submitted to EFSC. All funds received by Holder
10 from the salvage of equipment or buildings shall be committed to the restoration of the energy facility
11 site, to the extent necessary to fund the approved restoration.

12
13 (4) The restoration plan shall use native vegetation to restore the energy facility site to
14 the maximum extent consistent with the anticipated use of the energy facility site after the facility is
15 retired.

16
17 **C. Conditions Related to Exemption from the Requirement to Demonstrate Need**

18
19 (1) Commencement of construction of the first unit shall begin no later than thirty
20 months after final issuance of the Site Certificate. As used in Condition (1) and (3) of this section,
21 "final issuance of the Site Certificate" occurs upon completion of any judicial review and any
22 proceedings on remand to EFSC. If commencement of construction does not begin by the end of the
23 first year after final issuance of the Site Certificate, Holder may produce a letter of intent or other
24 commitment from energy suppliers operating in the Pacific Northwest, as defined in 16 USC Section
25 839 (a), to purchase at least 80% of the capacity of the facility for a period of at least ten years from
26 the commercial operation date. That portion of the project's capacity for which such a commitment
27 from energy suppliers operating in the Pacific Northwest to purchase 80% is demonstrated shall retain
28 its exemption from need showing under OAR Chapter 345, Division 23. If such a demonstration is
29 not made within the first year after final issuance of the Site Certificate, Holder may apply within sixty
30 days thereafter to amend its Site Certificate to demonstrate the facility is needed in accordance with
31 the EFSC rules and standards in effect at the time. If Holder demonstrates need, this certificate shall
32 in all other respects remain in full force and effect in accordance with its terms, except EFSC shall
33 attach new conditions regarding construction start and completion dates, and power sales contract terms
34 consistent with the demonstrated need for power.

35
36 (2) Holder shall, prior to commencing construction of the facility, or a portion of the
37 facility, provide the EFSC with a copy of a firm power sales contract or contracts demonstrating that
38 80% of the capacity from the facility, or that portion of the facility that Holder proposes to construct,
39 will be purchased by an energy supplier or suppliers operating in the Pacific Northwest, as defined by
40 16 USC Section 839(a), for a period of at least ten years from the commercial operation date.

41
42 (3) Construction completion of the facility, which shall be defined as the commercial
43 operation date of the facility, shall occur within five years from the final issuance of the Site
44 Certificate. EFSC may grant extensions of the construction completion date in accordance with OAR
45 345-27-030.

1 **D. Conditions Related to Public Health and Safety**
2

3 (1) Holder shall design, construct, operate and retire the facility in accordance with all
4 applicable statutes, rules, and ordinances.
5

6 (2) The pipeline shall be constructed in accordance with the requirements of the U.S.
7 Department of Transportation as set forth in Title 49, Code of Federal Regulations, Part 192.
8

9 (3) The pipeline shall have mechanical structures that allow the pipeline to be sealed
10 off, in the event of leakage, in a manner that will minimize the release of flammable materials. This
11 is rebuttably presumed to be satisfied if the pipeline meets the requirements of Title 49, Code of
12 Federal Regulations, Part 192.
13

14 (4) Holder shall develop a program, or assure the development of a program by the
15 entity responsible for the pipeline, using the best available, practicable technology to monitor the
16 proposed pipeline to ensure protection of public health and safety.
17

18 (5) The transmission line shall be designed so that alternating current electrical fields
19 shall not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the
20 public.
21

22 (6) The transmission line shall be designed so that induced currents resulting from the
23 transmission line and related facilities will be as low as reasonably achievable. Holder shall agree to
24 a program, or assure the entity responsible for the transmission line agrees to a program, which shall
25 provide reasonable assurance that all fences, gates, cattle guards, trailers, or other permanent objects
26 or structures that could become inadvertently charged with electricity shall be grounded through the
27 life of the line.
28

29 (7) The transmission line shall be designed, constructed, and operated in a manner
30 consistent with the National Electrical Safety Code, Section C2, 1990 Edition (American National
31 Standards Institute), as well as the Rural Electrification Administration standards, where applicable.
32

33 (8) Before commencing construction of the transmission line, Holder shall notify the
34 Office of Energy of which alternative transmission line route it has elected to use. Once this election
35 has been made, EFSC approval of the other alternative transmission line shall terminate.
36

37 **E. Conditions Related to EFSC to Monitoring and Reporting**
38

39 (1) The following rules from OAR Chapter 345, Division 26 apply to this facility:
40 OAR 345-26-005, 345-26-010, 345-26-015, 345-26-020, 345-26-025, 345-26-050 and 345-26-145.
41 The remainder of the Division 26 rules are either outside the scope of EFSC's decisional authority
42 under SB 1016, applicable only to nuclear power plants, or superseded by specific requirements set
43 out below.
44

45 (2) Prior to commencing construction for the first unit, Holder shall submit to EFSC

1 a program acceptable to EFSC for monitoring and reporting to EFSC the status of construction of the
2 facility. The program shall include a description of a report to be submitted to EFSC at least quarterly
3 from the start of construction to commercial operation of the second unit. The report shall include,
4 but is not limited to:

5
6 (a) an assessment of the construction schedule for each unit, including any
7 changes to major milestones that affect the critical path for construction;

8
9 (b) an assessment of the financial condition of the project, including changes to
10 the power sales contract and the equity and loan commitments;

11
12 (c) an assessment of the construction staffing, including status of staffing, any
13 staffing problems that may affect construction schedule, and any deviation from plans to hire
14 most construction workers locally;

15
16 (d) any work stoppages of more than 30 days;

17
18 (e) any violations of the conditions of permits issued by any other Federal, State
19 or Local authority; including the background of the causes of the violation, the mitigation or
20 correction of the violation, and the impact of the violation on the project schedule or financing;

21
22 (f) any violations of the conditions of permits issued to third parties that are
23 necessary for construction or operation of the facility, such as Water Right Permits or Water
24 Pollution Control Facility Permits; including the background of the causes of the violation, the
25 mitigation or correction of the violation, and the impact of the violation on the project schedule
26 or financing;

27
28 (g) copies of all correspondence and reports related to facility construction which
29 were submitted to a Federal, State, or Local authority, except material withheld from public
30 disclosure under Federal or State law. Abstracts of reports may be submitted in place of full
31 reports. However, full copies of abstracted reports must be provided at the request of the
32 Office of Energy or EFSC;

33
34 (h) Prior to commencing commercial operation of each unit, a written report
35 certified by an Oregon registered structural engineer documenting that the unit has been
36 constructed in compliance with the conditions in the Site Certificate adopted under the
37 structural standard;

38
39 (i) any noncompliance with the conditions of the Site Certificate, including the
40 background of the causes of the noncompliance, the mitigation or correction of the
41 noncompliance and any effect on the project schedule or financing; and

42
43 (j) any other information that EFSC requests that is considered necessary to
44 monitor and evaluate the Holder's compliance with the terms and conditions of the Site
45 Certificate.

1 (3) Prior to commencing preoperational testing for the first unit, Holder shall submit
2 to the EFSC a program acceptable to EFSC for monitoring and reporting to EFSC the status of
3 operation of the facility and of the decommissioning fund. The program shall include a description
4 of a report to be submitted to EFSC at least annually from the start of commercial operation of the
5 first unit through retirement of the last operating unit. The report shall include, but is not limited to:
6

7 (a) results of performance tests, including project efficiency testing, summaries
8 of fuel use, average volume and mass of steam supplied to the cogeneration host and the
9 estimated fuel used to generate the host steam load;
10

11 (b) in the first report submitted after commencement of commercial operation,
12 unit heat rate in Btu per kilowatt hour produced, corrected to ISO conditions and accounting
13 for steam delivered to the steam host, and also facility capacity corrected to 52.8°F, 55%
14 relative humidity, standard air pressure adjusted for elevation, no steam to process, natural gas
15 fuel, and normal steam turbine exhaust pressure, net of plant auxiliary loads;
16

17 (c) the power production by the facility by unit, by month, including peak
18 capacity, average capacity, gross and net kilowatt hour production, availability, potential
19 capacity constrained by dispatch agreement, reasons and durations of planned and unplanned
20 outages, plans to improve capacity and availability and to correct recurring problems;
21

22 (d) an assessment of the operations staffing, including status of staffing, any
23 staffing problems that may affect facility operation, and any deviation from plans to hire most
24 operations workers locally;
25

26 (e) any violations of the conditions of permits issued by any other Federal, State
27 or Local authority; including the background of the causes of the violation, the mitigation or
28 correction of the violation, and the impact of the violation on the project operation or
29 financing;
30

31 (f) any violations of the conditions of permits issued to third parties that are
32 necessary for construction or operation of the facility, such as Water Right Permits or Water
33 Pollution Control Facility Permits; including the background of the causes of the violation, the
34 mitigation or correction of the violation, and the impact of the violation and any effect on the
35 project operation or financing;
36

37 (g) copies of all correspondence related to facility operation which was submitted
38 to a Federal, State, or Local authority, except material withheld from public disclosure under
39 Federal or State law. Abstracts of reports may be submitted in place of full reports.
40 However, full copies of abstracted reports must be provided at the request of the Office of
41 Energy or EFSC;
42

43 (h) an assessment of the financial condition of the project, including changes to
44 the power sales contract and the equity and loan commitments.
45

1 (i) any noncompliance with the conditions of the Site Certificate, including the
2 background of the cause of the noncompliance, the mitigation or correction of the
3 noncompliance and any effect on the project schedule or financing; and
4

5 (j) any other information that EFSC requests that is considered necessary to
6 monitor and evaluate the Holder's compliance with the terms and conditions of the Site
7 Certificate.
8

9 (4) INFORMATION TO BE REPORTED PROMPTLY
10

11 (a) Holder shall report any material violation of any condition of the Site
12 Certificate by Holder or any of its contractors, subcontractors or agents to the Office of
13 Energy within 72 hours.
14

15 (b) Holder shall report to the Office of Energy within 24 hours if Holder or any
16 of its contractors, subcontractors or agents creates any condition by construction or operation
17 of the facility that endangers the public health and safety.
18

19 **F. Conditions Added in Accordance with OAR 345-27-020(11)**
20

21 Pursuant to OAR 345-27-020(11) (November 1995), EFSC has reviewed the ASC and
22 identified those statements and representations that it deems to be binding commitments.
23 Notwithstanding the foregoing, OAR 345-27-020(2)(a) (November 1995) shall apply to the
24 following conditions unless specifically noted within the particular condition. In the event of
25 a conflict between the ASC and Amendment No. 1 to the Site Certificate, Amendment No. 1
26 to the Site Certificate shall be deemed controlling.
27

28 Exhibit A
29

30 (1) HGC shall notify the Office of Energy of any modification to the identity of the partners
31 to the HGC partnership agreement, or to the ownership of the controlling interest of the HGC
32 partnership.
33

34 (2) Holder shall report any change to the identity of the operator (USOSC) to the Office of
35 Energy.
36

37 Exhibit B
38

39 (1) Holder shall construct and operate a zero discharge system as described on pages B-
40 12.a.2 through B-14.a.2 of the ASC, as amended by the "Amendment to Application for Site
41 Certificate" dated December 24, 1993 (at pages 1 and 4), and as further amended by the
42 "Request for Amendment", at pages 6-8, submitted on June 3, 1994.
43

44 (2) Holder shall design and construct the stormwater system for the energy facility as
45 described in the letter from Ray Hanley to Adam Bless, dated April 3, 1996, which description

1 is reproduced below:
2

3 The stormwater system for the energy facility site consists of two separate components.
4 The first component relates to all process work areas where there is the potential for
5 chemical releases. Each of these areas is drained to an oil/water separator and then to
6 the cooling tower basin for reuse as cooling water make-up.
7

8 The second component of the stormwater system relates to the non-process portions of
9 the site. Stormwater from these areas (where there is no chemical storage or potential
10 for stormwater contact with chemicals), is channeled to a detention basin designed to
11 detain runoff from the 100 year, 24-hour storm event with approximately a 50 percent
12 surplus capacity. Water from the detention basin will either evaporate, percolate into the
13 ground, or will be discharged to the cooling tower basin to be used as cooling water
14 make-up. There will be no stormwater discharge from the energy facility site to a public
15 stormwater system.
16

17 (3) The facility shall be designed and constructed in compliance with the commitment of
18 pages B-23a through the first paragraph on page B-26a, except that the reference in the ASC
19 to NFPA 580 shall be replaced by the Uniform Fire Code, 1991 edition, with Oregon
20 Amendments. Notwithstanding the provisions of OAR 345-27-020(2)(a) (November 1995)
21 Holder shall comply with the terms of this condition specifically as expressed herein.
22

23 Exhibit E

24
25 (1) Any request for amendment of the Site Certificate shall be accompanied by a list
26 of the names and mailing addresses of all owners of record, as shown on the most
27 recent property tax assessment roll, of property located within the site, and: (a) within
28 100 feet of the site where the site is within an urban growth boundary; (b) within 250
29 feet of the site where the site is outside an urban growth boundary and not within a
30 farm or forest zone; and (c) within 500 feet of the site where the site is outside an
31 urban growth boundary and in a farm or forest zone.
32

33 Exhibit F

34
35 (1) Solid waste materials shall be handled and disposed of as described in the ASC at
36 page F-2a.2 under "Solid Waste Materials."
37

38 (2) Constituents in the cooling water effluent shall primarily be higher concentrations
39 of native impurities. Concentrations of other additives should be below detectable
40 levels as stated on page F-4a.2 of the ASC.
41

42 (3) Chemicals associated with the SCR system and other chemicals shall be stored and
43 handled as described in the last four paragraphs of page F-4a.2 and the first four
44 paragraphs of page F-5a.2 of the ASC. Holder shall comply with the terms of this

1 condition specifically as expressed herein, notwithstanding the provision of OAR 345-
2 27-020(2)(a) (November 1995).

3
4 (4) Holder shall store compressed gases as described in the last paragraph of page F-
5 5.a.2 of the ASC and in Amendment No. 1 to the Site Certificate.

6
7 **Exhibit U**

8
9 (1) The energy facility shall obtain process and cooling water from the Port of
10 Umatilla's regional supply system as stated on page U-12a.2 of the ASC.

11
12 (2) Water for domestic used shall be supplied by Lamb Weston's existing water supply
13 system. Lamb Weston's system shall not require any modification to supply water to
14 the energy facility other than a supply line from their facility to the energy facility as
15 stated on page U-13a.2 of the ASC.

16
17 (3) Fuel oil shall not be required for the energy facility, as stated on page U-13a.2 of
18 the ASC.

19
20 **Exhibit V**

21
22 (1) Holder shall conduct periodic audits to ensure compliance with and evaluate the
23 effectiveness of the waste minimization and recycling programs described in the ASC
24 at page V-3a.2.

25
26 (2) Holder shall utilize water saving measures as practical, as described in the ASC
27 at pages V-4a.2 and V-5a.2.

28
29 **V. AMENDMENT OF SITE CERTIFICATION AGREEMENT**

30
31 Holder and EFSC recognize that, because of the length of time that may pass between the date
32 on which this Agreement is executed and the date on which construction will commence, and that will
33 pass between the time construction is commenced and the energy facility is retired, it may be necessary
34 to amend this Agreement.

35
36 Amendments shall be made in accordance with OAR Chapter 345, Division 27.

37
38 **VI. SUCCESSORS AND ASSIGNS**

39
40 No Site Certificate, or any portion thereof, may be transferred, assigned, or disposed of in any
41 other manner, directly or indirectly, except in compliance with OAR 345-27-100.
42

1 **VII. SEVERABILITY AND CONSTRUCTION**

2
3 If any provision of this agreement and certificate is declared by a court to be illegal or in
4 conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the
5 rights and obligations of the parties shall be construed and enforced as if the agreement and certificate
6 did not contain the particular provision held to be invalid. In the event of a conflict between the
7 warranties and conditions contained in the Site Certificate and EFSC's final orders, the warranties and
8 conditions contained in this Site Certificate shall control.
9

10 **VIII. GOVERNING LAW AND FORUM**

- 11
12 A. This agreement shall be governed by the laws of the State of Oregon.
13
14 B. Any litigation or arbitration arising out of this agreement shall be conducted in an
15 appropriate forum in Oregon.
16

1 IN WITNESS WHEREOF, this amended Site Certificate has been executed by the State of
2 Oregon, acting by and through its Energy Facility Siting Council, Hermiston Generating Company,
3 L.P., and PacifiCorp.
4

5
6 ENERGY FACILITY SITING COUNCIL

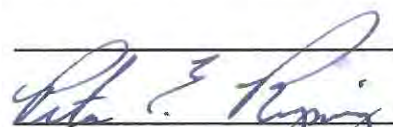
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8 _____

7/23/96
DATE

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10 By: _____

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12 Its: _____
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16 HERMISTON GENERATING COMPANY, L.P.

17
18 _____
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7/25/96
DATE

20 By: _____

21
22 Its: AUTHORIZED 
23
24
25

26 PACIFICORP

27 _____

28 26 July 96
DATE

29
30 By: 

31
32 Its: Vice President
33