



# Oregon

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**To:** Energy Facility Siting Council

**From:** Sarah Esterson, Senior Policy Advisor

**Date:** January 6, 2023

**Subject:** Agenda Item G (Action Item):  
Columbia Ethanol Project, Request for Council Approval to Amend Port of  
Morrow Agreement for the January 19-20, 2023 EFSC Meeting

**Attachment:** Attachment 1: Draft Amended Agreement

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## STAFF RECOMMENDATION

The Oregon Department of Energy (Department) recommends that the Energy Facility Siting Council (Council) approve changes to an agreement between certificate holder and Port of Morrow required under the Columbia Ethanol Project Site Certificate, to update the name of the certificate holder from Pacific Ethanol Columbia, LLC to Alto Columbia, LLC following a 2021 organizational restructure; clarify and define the arbitration process; and incorporate administrative updates (i.e. rule references, procedural history)

## BACKGROUND

The Columbia Ethanol Project is an operational ethanol plant capable of producing 44 million gallons per year, located on a 25-acre parcel leased from the Port of Morrow in the Boardman Industrial Park in Morrow County Oregon. Council granted issuance of a site certificate in 2007; and granted issuance of an amended site certificate in 2017. One of the changes approved in the 2017 First Amended Site Certificate applies to Condition IV.C.13. Condition IV.C.13 was imposed to reflect the requirements of Council's Mandatory Condition pursuant to OAR 345-025-0006(8), which states:

*Before beginning construction of the facility, the certificate holder must submit to the State of Oregon, through the Council, a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition. The certificate holder must maintain a bond or letter of credit in effect at all times until the facility has been retired. The Council may specify different amounts for the bond or letter of credit during construction and during operation of the facility.*

Condition IV.C.13 approved a decommissioning amount that represents an amount less than what would be required for complete removal of all facility components. The Council allowed for a reduced decommissioning from approximately \$900k to \$300k (4<sup>th</sup> quarter 2016 dollars) based on receipt of an executed agreement between the certificate holder and Port of Morrow, the underlying landowner of the facility site, whereby Port of Morrow agreed to accept responsibility and liability and utilize facility components as useful and nonhazardous once the facility components were cleaned and component contents were properly hauled from the site and disposed (estimated at approx. \$300k).

Condition IV.C.13 requires Council approval for any amendment of the executed agreement between the certificate holder and Port of Morrow.

In December 2022, certificate holder requested review and continued concurrence from Port of Morrow on the agreement, including changes triggered by a 2021 certificate holder name change. In 2021, the name of the certificate holder changed from Pacific Ethanol Columbia, LLC to Alto Columbia, LLC. Port of Morrow agreed to the certificate holder name changes and proposed additional changes including redefining the Arbitration process, as presented in Attachment 1.

#### **PROPOSED CHANGES TO AGREEMENT**

The changes proposed to the agreement include replacing all references of Pacific Ethanol Columbia, LLC to Alto Columbia, LLC; updating the "Arbitration" language from broad to specific; and updating rule references and other administrative revisions. If Council approves the requested changes, the Department will request that the amended agreement be executed and returned to the Department within 30-days.

#### **ATTACHMENTS:**

Attachment 1: Attachment 1: Draft Amended Agreement