

1 **A.2.2. Amendment #2**

2 The Council granted PGE a second amendment to the CSCP site certificate on March 7,
3 1997. Amendment #2 allowed PGE to use #2 low-sulfur distillate oil for back-up fuel for
4 the natural gas-fired combustion turbines at CSCP.

5
6 **A.2.3. Amendment #3**

7 The Council issued a third amendment to the CSCP site certificate on August 28, 1998.
8 Amendment #3 removed the site certificate conditions relating to phase two that had
9 required the applicant to demonstrate either that the facility met the need for facility
10 standard or qualified for an exemption under former OAR 345-23-010(2) (April 1994
11 rule) before the Council could extend the deadline for completion of construction. In
12 place of the need for facility standard, amendment #3 imposed site certificate conditions
13 ensuring compliance with the applicable carbon dioxide (CO₂) emissions standard, ORS
14 469.503(2)(a). Amendment #3 added language to the mandatory conditions of the site
15 certificate, requiring PGE to demonstrate compliance with ORS 469.503(2) before the
16 Council would grant an extension of the construction completion date for phase two. In
17 the order approving the amendment, the Council found that the CSCP meets the CO₂
18 standard. Also, amendment #3 restricted the use of #2 low-sulfur distillate oil to Unit 1.

19
20 **B. Procedural History**

21 **B.1. Applicable Law**

22 Under ORS 469.405, the Council may approve an amendment to a site certificate. The
23 Council has adopted rules for the amendment process. Under OAR 345-27-011, the
24 Council's current rules for amendment of a site certificate do not apply to facilities for
25 which a site certificate was executed before November 30, 1994, unless the site certificate
26 is amended to include their applicability. The site certificate for the CSCP was executed
27 September 16, 1994.

28
29 On December 6, 1996, the Council approved PGE's Request for Amendment No. 1.
30 Among the provisions of the Council order approving amendment #1 was approval of an
31 amendment of the site certificate "to incorporate specifically the applicability of OAR
32 345-27-050 through OAR 345-27-080 and OAR 345-27-095 to clarify that the Council
33 will process subsequent requests for amendments or petitions by PGE under the
34 Council's most current procedural rules."¹

35
36 Amendment #1 did not include current OAR 345-27-030 among the provisions of the
37 current rules made applicable to the CSCP site certificate. Accordingly, current OAR
38 345-27-030 is not applicable to PGE's request to extend the date by which the plant must
39 be completed. The request for extension of the construction deadline, therefore, is subject

¹ Although the order approving the amendment included this Council decision, the amendment document, "Amendment Number One to the Thermal Power Plant Site Certificate For the Coyote Springs Cogeneration Project," did not contain specific amending language to incorporate within the site certificate the Council's decision on the applicability of the cited rules.

1 to former OAR 345-27-030 (April 1994 rule), the full text of which is set forth below in
2 section C.2.

3
4 **B.2. Office of Energy Review Steps**

5 **B.2.1. PGE's Request**

6 PGE submitted its Fourth Request to Amend Site Certificate on July 2, 1998.

7
8 **B.2.2. Review by Other Agencies, Local Governments and Tribes and Initial**
9 **Public Notice**

10 As required by OAR 345-27-070(1), the Office identified potentially affected agencies,
11 local governments and tribes and asked them to review the request for amendment #4.
12 The Office mailed a copy of the amendment request along with a review report form on
13 July 6, 1998, to those agencies, local governments and tribes and asked them to reply by
14 August 5, 1998.

15
16 The reviewing agencies, local governments and tribes are the Oregon Department of
17 Geology and Mineral Industries (DOGAMI); the Oregon Department of Fish and
18 Wildlife (ODFW); the Division of State Lands (DSL); the Department of Agriculture
19 (ODA); the Department of Land Conservation and Development (DLCD); the Water
20 Resources Department (WRD); the Department of Parks and Recreation (ODPR); the
21 State Historic Preservation Office (SHPO); the Department of Transportation (ODOT),
22 the Department of Environmental Quality (DEQ), the Office of State Fire Marshall, the
23 Oregon Public Utilities Commission (OPUC), the Building Codes Division (BCD), the
24 Department of Forestry (ODF), the Northwest Power Planning Council (NWPPC), the
25 Cities of Boardman and Irrigon, Port of Morrow, Morrow County, the Confederated
26 Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of Warm Springs.

27
28 On July 6, 1998, the Office mailed a notice of PGE's request for amendment to all
29 persons on the Council's general mailing list, as required by OAR 345-27-070(1). The
30 notice specified that comments on the request would be due by August 5, 1998.

31
32 **B.2.3. Replies**

33 **B.2.3.1. State Agencies and the Northwest Power Planning Council**

34 Seven state agencies replied to the Office of Energy's request for comment. No agency
35 raised any issue with the proposed amendment or suggested any condition related to the
36 amendment. The Northwest Power Planning Council replied but raised no issue.

37
38 **B.2.3.2. Cities and Counties**

39 The City of Irrigon replied to the Office of Energy's request for comment but raised no
40 issue about the proposed amendment.

41
42 **B.2.4. Proposed Order**

43 The Office issued its proposed order on August 26, 1998.

1 **B.2.5. Notice**

2 On August 26, 1998, the Office mailed notice of the proposed order to the Council's
3 general mailing list and a special mailing list established for the amendment, as required
4 under OAR 345-27-070(2). The notice set a deadline for public comments of September
5 25, 1998, and gave notice of the opportunity to ask that the Council hold a contested case
6 proceeding on the proposed order.
7

8 **B.2.6. Public Comments on the Proposed Order**

9 The Office received no public comments on the proposed order.
10

11 **B.3. Council Review Steps**

12 **B.3.1. Council Notice**

13 The Office mailed PGE's request for amendment #4 to the Council on July 2, 1998. The
14 Office presented information about the request to the Council at the Council meeting on
15 July 10, 1998.
16

17 The Office mailed the proposed order to the Council on August 26, 1998.
18

19 **B.3.2. Council Hearing and Action**

20 No person requested a contested case hearing during the 30 day period after the Office
21 issued the proposed order. On October 16, 1998, the Council held a public hearing on the
22 Fourth Request to Amend the Site Certificate. At the conclusion of the hearing, the
23 Council approved the request, with the modification as detailed in this final order.
24

25 **C. General Findings of Fact Related to the Request for Amendment**

26 **C.1. Summary of Changes to the Site Certificate**

27 PGE is requesting an amendment of the site certificate conditions related to the
28 construction completion date for the second unit of the CSCP (phase two). The proposed
29 amendment would extend the construction completion deadline for phase two from
30 September 16, 1999, to September 16, 2001.
31

32 **C.2. Extending the Construction Deadline -- Effect on Other Development**

33 The request for extension of the construction deadline is subject to former OAR 345-27-
34 030 (April 1994 rule), as follows:
35

36 Extension of Construction Deadline

37
38 345-27-030 (1) If a certificate holder cannot complete construction
39 by the deadline established in the site certificate, the certificate
40 holder may request that the Council extend the deadline. A request
41 shall conform to the requirements of OAR 345-27-050 and 345-27-
42 060. The request shall be filed no later than six months prior to the
43 date of the construction deadline contained in the site certificate
44 unless the extension is requested due to unforeseen circumstances
45 beyond the control of the certificate holder in which case the

1 request must be filed prior to the date of the construction deadline
2 in the certificate.

3
4 (2) If a certificate holder files a timely request for an amendment
5 pursuant to subsection (1) of this rule, the provisions of the current
6 site certificate remain in force until the Council renders a decision
7 on the request. However, if the construction deadline would expire
8 before the Council has an opportunity to rule on the request for an
9 extension, the Council may extend the construction deadline by a
10 temporary order until it makes its determination.

11
12 (3) The Council may grant the request for an amendment to extend
13 the construction deadline pursuant to the provisions of OAR 345-
14 27-070 or -080, whichever is applicable. If granted, each
15 certificate amendment shall extend the construction deadline a
16 maximum of two years. When granting an amendment, the
17 Council shall determine that continued reservation of natural
18 resources to be used by the facility will not preclude other
19 necessary development. The Council shall also notify the land use
20 planning authority with jurisdiction over the area where the site is
21 located.

22
23 PGE filed the request for amendment more than six months before the date of the
24 construction deadline contained in the site certificate. The request is timely, as required
25 by OAR 345-27-030(1) (April 1994 rule), quoted above.

26
27 Under OAR 345-27-030(3) (April 1994 rule), quoted above, the Council may extend the
28 construction deadline a maximum of two years from the deadline contained in the site
29 certificate. The deadline stated in section V.A.2.(1) of the site certificate is five years
30 from the date of execution of the site certificate, or September 16, 1999. The Council
31 may extend the construction completion date to September 16, 2001.

32
33 The City of Boardman is the planning authority with jurisdiction over the area where the
34 site is located. The Office, acting under the Council's rules, sent notice of the proposed
35 amendment to the City of Boardman, as required by the last sentence of OAR 345-27-
36 030(3) (April 1994 rule), quoted above.

37
38 The natural resources to be used for construction and operation of phase two of the CSCP
39 are the land where unit two of the facility would be located, the water necessary for
40 operation of unit two, and the air quality affected by construction and operation of unit
41 two. The effect of continued reservation of these resources on other development is
42 discussed below.

1 **C.2.1. Land Resource**

2 In the Final Order approving the CSCP site certificate, the Council found that the site of
3 the facility, including unit two, was within the Port of Morrow Industrial Park
4 immediately south of a bank and berm created by the Union Pacific Railroad east-west
5 mainline. The county has zoned the land within the industrial park for industrial and
6 utility power generation use. The site has been extensively dredged for aggregate.
7 In its request for amendment, PGE notes that on November 5, 1996, the City of
8 Boardman, having annexed the portion of the industrial park containing the facility site,
9 approved a zoning ordinance for the location. Ordinance No. 180 made “power
10 generating and utility facilities” a use permitted outright within the industrial zone.

11
12 Phase one of the CSCP has been built at the site and consists of several structures. These
13 existing structures surround the specific location where unit two would be built. In the
14 request for amendment, PGE notes that it has a long-term lease on the property. PGE
15 notes, further, that extension of the completion deadline will not affect any other use of
16 the property.

17
18 The Morrow County Planning Department and the City of Boardman are aware of the
19 proposed amendment. Neither Morrow County nor the City of Boardman have identified
20 any “necessary development” at the site that could be precluded by extending the
21 construction completion date for phase two. Neither the city nor the county have raised
22 an issue concerning the use of the land in question. In a letter of August 10, 1998, the
23 Boardman City Manager expressed the city’s support for granting the extension. In a
24 letter of August 21, 1998, the City Manager stated that the city is not aware of any
25 anticipated development that would be delayed or prevented by granting a two-year
26 extension of the construction completion deadline.

27
28 **C.2.2. Water Resource**

29 In the Final Order approving the site certificate, the Council made findings concerning
30 the consumptive use of water by the proposed CSCP facility, including both units. The
31 Council found that PGE has an agreement with the Port of Morrow by which the Port
32 would provide all water needed to operate the CSCP. In the Final Order approving
33 amendment #2, the Council found that the Port of Morrow and the City of Boardman
34 have excess capacity sufficient to supply the CSCP’s instantaneous demand for additional
35 water required for control of NO_x during distillate fuel firing.

36
37 In its request for amendment, PGE notes that the land upon which the facility is located
38 has been annexed to the City of Boardman since the site certificate was issued and that
39 the Port of Morrow has an agreement with the city under which municipal water will be
40 available to the plant. In a letter to the Office of Energy, dated June 9, 1998, in reply to a
41 notice of the request for amendment #3, the Oregon Water Resources Department
42 indicated that the Port has adequate water rights to allow for an increase in use to serve
43 the facility.

1 The Port of Morrow, the City of Boardman and Morrow County have all received notice
2 of the proposed two-year extension of the construction completion date for the CSCP.
3 None of these entities has raised a concern that reservation of water resources would
4 preclude any necessary development. In a letter of August 14, the Port of Morrow
5 General Manager expressed assurance that there are adequate water supplies available for
6 phase one and phase two of the CSCP without precluding any necessary development in
7 the Boardman area.

8 9 **C.2.3. Air Quality Resource**

10 In the Final Order approving the site certificate, the Council found that the proposed
11 CSCP power plant would generate combustion pollutants that would be released to the
12 atmosphere. Control of these emissions is regulated by the Oregon Department of
13 Environmental Quality (DEQ) under the federal Air Contaminant Discharge Permit
14 process, which is not within the Council's jurisdiction.

15
16 In the request for amendment, PGE notes that it is working with DEQ to extend the
17 construction time for phase two and will continue to comply with all requirements of its
18 permit. In a letter of August 12, 1998, PGE notes that based upon DEQ standards and
19 modeling, phase two of the CSCP is not classified as a significant source and the
20 Boardman area is not an Air Quality Limited area. The Office of Energy, in consultation
21 with DEQ, has confirmed that, although phase two will have significant emissions, the
22 anticipated emissions will not exceed ambient air quality standards. The City of
23 Boardman is considered in attainment for federally designated criteria pollutants. DEQ
24 asked PGE to perform additional analysis in connection with extending the construction
25 completion deadline, and DEQ confirms that PGE has submitted the requested
26 information. In response to the Office of Energy's notice of the proposed amendment,
27 DEQ replied that it had no significant issues to raise, that it proposed no conditions for
28 the site certificate relating to the amendment, and that it had no other information to
29 report. No issue about preclusion of other necessary development as a result of
30 reservation of air quality resources has been raised by DEQ or by the local governments
31 or the Port of Morrow.

32 33 **C.2.4. Conclusion About Effect on Other Development**

34 The Council concludes, based on the discussion above, that continued reservation of
35 natural resources to be used by phase two of the CSCP for the additional two year
36 construction period requested by this amendment will not preclude other necessary
37 development.

38 39 **D. Amendment of the Site Certificate**

40 **D.1. Amendment Proposed by PGE**

41 PGE requested the following amendment to the site certificate. PGE's proposed deletions
42 are shown as strikeouts and proposed additions are underlined.

43
44 V.A.2. Construction commencement and completion dates
45

1 (1) Applicant shall begin construction of phase one of the
2 proposed facility within one year after the site certificate is
3 executed. This one-year period shall be tolled during any appeal
4 that is taken of the Energy Facility Siting Council (EFSC) Order.
5 Notwithstanding the tolling of the one-year time period for
6 commencement of construction, Applicant shall complete
7 construction of phase one by September 16, 1998 ~~within four~~
8 ~~years,~~² and phase two shall be completed by September 16,
9 2001 ~~within five years, of execution of the site certificate. EFSC~~
10 ~~may extend the four year period for construction completion if the~~
11 ~~Applicant shows that the need for extension is caused by acts of~~
12 ~~God or force majeure events. EFSC anticipates such a request will~~
13 ~~be considered a minor amendment under OAR 345-27-080.~~
14

15 **D.2. Related Amendments Approved by the Council**

16 PGE noted that other amendments to site certificate section V.A.2. were proposed in its
17 request for amendment #3. On August 21, 1998, the Council approved PGE's request for
18 amendment #3 with modifications. Section V.A.2., as amended by the Council's recent
19 action, includes the following:

20 (4) If the site certificate holder requests an extension of the
21 construction completion deadline for phase two and the site
22 certificate holder does not meet the requirements of Condition
23 V.A.2.(3) above, the site certificate holder shall demonstrate that
24 the facility meets the requirements of ORS 469.503(2) in order for
25 EFSC to approve extending the deadline.
26

27 (5) In no event will EFSC grant an extension of the construction
28 completion deadline for phase two of more than two years from the
29 five year deadline specified in the applicant's warranty. The
30 construction completion deadline for phase two, as specified in the
31 applicant's warranty, or as may be later extended, will not be tolled
32 for reason of appeal of the EFSC's order.
33

34 **D.3. Amendments Recommended by the Office of Energy**

35 The Council adopts PGE's proposed amendment of site certificate section V.A.2.(1) as
36 requested.
37

38 The Council notes that amended section V.A.2.(5), as adopted by the Council on August
39 21, 1998, contains a reference to "the five year deadline specified in the applicant's
40 warranty." If the Council adopts proposed amended section V.A.2.(1), this reference
41 would no longer be meaningful. The Council, therefore, amends section V.A.2.(5) as set
42 forth below.
43

² Deleted text omitted, but implied, in PGE's amendment request.

1 The “applicant’s warranty” referred to in section V.A.2.(5) is contained in section III of
2 the site certificate, as follows:

3
4 (3) Applicant represents and warrants that it will undertake and
5 complete construction of Phase I and Phase II of the CSCP
6 according to the conditions of the construction commencement and
7 completion dates at V.A.2.
8

9 The unamended language of the site certificate at section V.A.2.(1) specified the
10 completion date of phase two as “within five years” of execution of the site certificate.
11 The proposed amendment of section V.A.2.(1) replaces this “five year” deadline with a
12 specific date: September 16, 2001. To conform section V.A.2.(5) to the proposed new
13 language in section V.A.2.(1), the Council adopts the following amendment:
14

15 (5) In no event will EFSC grant an extension of the construction
16 completion deadline for phase two beyond September 16, 2001 ~~of~~
17 ~~more than two years from the five year deadline specified in the~~
18 ~~applicant’s warranty.~~ The construction completion deadline for
19 phase two, as specified in the applicant’s warranty, ~~or as may be~~
20 ~~later extended,~~ will not be tolled for reason of appeal of the EFSC’s
21 order.
22

23 **E. Compliance with Council Standards**

24 **E.1. General Standard of Review**

25 OAR 345-27-070(6) sets forth the Council’s general standard for review of a request by a
26 site certificate holder for an amendment:
27

28 In evaluating a request for an amendment under this rule, the
29 Council shall limit its consideration to the effects which may be
30 produced by the proposed change or addition to the site or facility
31 described in the request for amendment. In considering those
32 effects, the Council shall apply state statutes, administrative rules,
33 and local government ordinances in effect on the date the amended
34 Site Certificate is executed.
35

36 The following discussion of applicable standards addresses the current (November 1995)
37 version of the OAR Chapter 345, Division 22 rules.
38

39 **E.2. Standards Relating to the Applicant**

40 **E.2.1 Applicant Qualification and Capability, OAR 345-22-010(1)**

41 To meet this paragraph of the standard, the Council must find that:
42

43 ...the applicant has the organizational, managerial and technical
44 expertise to construct and operate the facility. To conclude that the
45 applicant has the organizational, managerial and technical expertise

1 to construct and operate the proposed facility, the Council must
2 determine that the applicant has a reasonable probability of
3 successful construction and operation of the facility considering
4 the experience of the applicant, the availability of technical
5 expertise to the applicant, and, if the applicant has constructed or
6 operated other facilities, the past performance of the applicant,
7 including but not limited to the number and severity of regulatory
8 citations, in constructing or operating a facility, type of equipment,
9 or process similar to the proposed facility.

10
11 **Discussion.** In the amendment request, PGE states that there has been no
12 change in the organizational, managerial and technical expertise of PGE since the
13 Council approved the site certificate in 1994. PGE notes that there will be no changes
14 “other than possible personnel changes which may occur over time in the normal course
15 of business.” The proposed extension of the construction completion deadline has no
16 effect on PGE’s organizational, managerial and technical expertise.

17
18 **Conclusion.** The Council finds that PGE has satisfied the requirements of OAR
19 345-22-010(1).

20
21 **E.2.2. Third-Party Services and Permits, OAR 345-22-010(2) and (3)**

22 The second and third paragraphs of the standard for organizational, managerial and
23 technical expertise address third party services and permits. These paragraphs of the
24 standard require that:

25
26 (2) If the applicant will not itself obtain any state or local
27 government permit or approval for which the Council would
28 ordinarily determine compliance with applicable standards, but
29 will rely on a permit or approval issued to a third party, the
30 Council must determine that the named third party has, or has a
31 reasonable likelihood of obtaining, the necessary permit or
32 approval, and that the applicant has, or has a reasonable likelihood
33 of entering into, a contractual or other arrangement with the third
34 party for access to the resource or service secured by that permit or
35 approval.

36
37 (3) If any third party named by the applicant does not have the
38 necessary permit or approval at the time the Application for Site
39 Certificate is approved, the Council may require as a condition that
40 the Site Certificate Holder may not commence construction or
41 operation as appropriate until the third-party has obtained the
42 necessary permit or approval and the applicant has a contract or
43 other arrangement for access to the resource or service secured by
44 that permit or approval.
45

1 **Discussion.** In the Final Order approving the site certificate, the Council found
2 that the applicable third-party services and permits were those relating to water rights,
3 industrial wastewater disposal and sanitary wastewater disposal. The Port of Morrow has
4 confirmed that adequate water supplies are available for phase two of the CSCP.
5 According to PGE, industrial wastewater is processed through a contract with the Port of
6 Morrow and sanitary wastewater is processed by the City of Boardman. The proposed
7 extension of time for completing construction has no effect on these third-party services.

8
9 **Conclusion.** The Council finds that PGE meets the requirements of OAR 345-
10 22-010(2) and (3) for third-party services and permits.

11
12 **E.2.3. Financial Assurance Standard, OAR 345-22-050**

13 The financial assurance standard requires the Council to find that:

14
15 ...the applicant has a reasonable likelihood of obtaining a bond or
16 comparable security, satisfactory to the Council, in an amount
17 adequate to restore the site if the site certificate holder:

18
19 (1) Begins but does not complete construction of the facility; or

20
21 (2) Permanently closes the facility before establishing a financial
22 mechanism or instrument, satisfactory to the Council, that will
23 assure funds will be available to adequately retire the facility and
24 restore the site to a useful, non-hazardous condition.

25
26 **Discussion.** In issuing the site certificate, the Council found that PGE had
27 reasonable assurance of obtaining the funds necessary to cover the estimated costs for
28 retirement and restoration of the site of the facility. This finding anticipated both phase
29 one and phase two of the facility. The proposed extension of time for completing
30 construction does not change the factual basis for the Council's decision, in the Final
31 Order, that PGE met the financial assurance standard.

32
33 **Conclusion.** The Council finds that PGE meets the financial assurance
34 standard, OAR 345-22-050.

35
36 **E.3. Standards Relating to the Site and Structure**

37 **E.3.1. Structural Standard, OAR 345-22-020**

38 The structural standard requires the Council to find:

39
40 (1) The applicant, through appropriate site specific study, has
41 adequately characterized the site in terms of seismic zone and
42 expected ground response during the maximum credible seismic
43 event; and

1 (2) The facility can be designed, engineered and constructed
2 adequately to avoid potential dangers to human safety presented by
3 seismic hazards affecting the site, as defined in ORS 455.447(1)(d)
4 and including amplification, that are expected to result from all
5 reasonably probable seismic events.
6

7 **Discussion.** In the amendment request, PGE notes that there have been no
8 changes in the characterization of the site since the site certificate was issued. The site
9 certificate requires construction in accordance with the laws and regulations administered
10 by the Building Codes Division (formerly named Building Codes Agency). The
11 proposed extension of time for completion of construction does not change the factual
12 basis of the Council's decision, in the Final Order, that the structural standard was met.
13

14 **Conclusion.** The Council finds that the CSCP meets the structural standard,
15 OAR 345-22-020.
16

17 **E.3.2. Soil Protection Standard, OAR 345-22-022**

18 The soil protection standard requires the Council to find "...that the design, construction
19 and operation of the facility, taking into account mitigation, is not likely to result in a
20 significant adverse impact to soils."
21

22 **Discussion.** The proposed amendment would have no effect on the way PGE
23 designs, constructs or operates the facility. The proposed extension of time for
24 completing construction has no effect on the factual basis for the Council's decision, in
25 the Final Order, that the soil protection standard was met.
26

27 **Conclusion.** The Council finds that the CSCP meets the soil protection
28 standard, OAR 345-22-022.
29

30 **E.3.3. Land Use Standard, OAR 345-22-030(2)(a)**

31 Section (1) of the land use standard requires that the facility be in compliance with "the
32 statewide planning goal adopted by the Land Conservation and Development
33 Commission." OAR 345-22-030(1). The standard contains the following method of
34 compliance, which PGE relied on in its site certificate application:
35

36 (2) A proposed facility shall be found in compliance with section
37 (1) of this rule if:

38 (a) The facility has received local land use approval under
39 the acknowledged comprehensive plan and land use regulations of
40 the affected local government, ***
41

42 **Discussion.** The City of Boardman has annexed the site of the facility and
43 approved a local ordinance making "power generating and utility facilities" an outright
44 permitted use at the site. The city has expressed its support for granting the extension of
45 time to complete construction.

1
2 **Conclusion.** The Council finds that the CSCP meets the land use standard,
3 OAR 345-22-030.

4
5 **E.4. Standards Relating to the Impacts of Construction, Operation and**
6 **Retirement**

7 **E.4.1. Protected Areas Standard, OAR 345-22-040**

8 The protected areas standard prohibits the siting of an energy facility in any of the listed
9 protected areas. OAR 345-22-040(1). The standard permits the siting of a facility
10 outside the listed protected areas so long as the Council finds, "taking into account
11 mitigation, the design, construction and operation of the facility...is not likely to result in
12 significant adverse impact" to any of the listed protected areas.

13
14 **Discussion.** The site of the facility is not in any protected area. In its Final
15 Order approving the site certificate, the Council found that the facility would have no
16 significant adverse impact on any protected area. This finding anticipated both phases of
17 the CSCP project. The proposed extension of time for completing construction has no
18 effect on the factual basis for the Council's decision, in the Final Order, that the protected
19 areas standard was met.

20
21 **Conclusion.** The Council finds that the CSCP meets the protected areas
22 standard, OAR 345-22-040.

23
24 **E.4.2. Fish and Wildlife Habitat Standard, OAR 345-22-060**

25 The fish and wildlife habitat standard requires that the Council find that "the design,
26 construction, operation and retirement of the facility, taking into account mitigation, is
27 consistent with the fish and wildlife mitigation goals and standards of OAR 635-415-
28 030." OAR 635-415-030 describes four categories of habitat in order of their value. The
29 rule then establishes mitigation goals and corresponding implementation standards for
30 each habitat category.

31
32 **Discussion.** In the Final Order approving the site certificate, the Council found
33 that the site of the CSCP is habitat category 4 and that loss of the habitat would not
34 constitute a significant adverse impact on wildlife. The Council found that construction
35 and operation of the facility could have some adverse effect on wildlife in the
36 surrounding area, and the site certificate includes conditions to mitigate those possible
37 impacts. The proposed extension of time for completing construction has no effect on the
38 factual basis for the Council's decision, in the Final Order, that the fish and wildlife
39 habitat standard was met.

40
41 **Conclusion.** The Council finds that the CSCP meets the fish and wildlife
42 habitat standard, OAR 345-22-060.

1 **E.4.3. Threatened and Endangered Species, OAR 345-22-070**

2 The threatened and endangered species standard requires that the Council find that the
3 design, construction, operation and retirement of the facility, taking into account
4 mitigation, be consistent with any applicable conservation program adopted pursuant to
5 ORS 496.172(3) or ORS 564.105(3). If no conservation program applies, the facility
6 must not have the potential to reduce significantly the likelihood of the survival or
7 recovery of any threatened or endangered species listed under ORS 496.172(2) or ORS
8 564.105(2).

9
10 **Discussion.** In the Final Order approving the site certificate, the Council
11 concluded that the proposed facility satisfied the threatened and endangered species
12 standard for plants and animals. The proposed extension of time for completing
13 construction has no effect on the factual basis for the Council's decision, in the Final
14 Order, that the standard was met.

15
16 **Conclusion.** The Council finds that the CSCP meets the threatened and
17 endangered species standard, OAR 345-22-070.

18
19 **E.4.4. Scenic and Aesthetic Standard, OAR 345-22-080**

20 The scenic and aesthetic standard requires that the Council find that "the design,
21 construction, operation and retirement of the proposed facility, taking into account
22 mitigation, is not likely to result in significant adverse impact to scenic and aesthetic
23 values identified as significant or important in the applicable federal land management
24 plans or the local land use plan for the site or its vicinity."

25
26 **Discussion.** In its amendment request, PGE proposes no change to the design,
27 construction or operation of the facility that would affect scenic and aesthetic values. The
28 proposed extension of time for completing construction has no effect on the factual basis
29 for the Council's decision, in the Final Order, that the scenic and aesthetic standard was
30 met.

31
32 **Conclusion.** The Council finds that the CSCP meets the scenic and aesthetic
33 values standard, OAR 345-22-080.

34
35 **E.4.5. Historic, Cultural and Archeological Resources Standard, 345-22-090**

36 The historic, cultural and archeological resources standard requires that the Council find
37 that "the design, construction, operation and retirement of the facility, taking into account
38 mitigation, is not likely to result in significant adverse impacts to:

- 39
40 (1) Historic, cultural or archaeological resources that have been
41 listed on, or would likely be listed on the National Register of
42 Historic Places;

1 (2) For a facility on private land, archaeological objects, as
2 defined in ORS 358.905(1)(a), or archaeological sites, as defined in
3 ORS 358.905(1)(c); and,
4

5 (3) For a facility on public land, archaeological sites, as defined in
6 ORS 358.905(1)(c).
7

8 **Discussion.** In the Final Order approving the site certificate, the Council
9 concluded that the construction, operation and retirement of the facility would not result
10 in a significant adverse impact to historic, cultural or archaeological resources. The site
11 certificate includes conditions protecting any artifacts and historic, cultural or
12 archaeological resources discovered during construction. The proposed extension of time
13 for completing construction has no effect on the factual basis for the Council's decision,
14 in the Final Order, that the historic, cultural and archaeological standard was met.
15

16 **Conclusion.** The Council finds that CSCP meets the historic, cultural, and
17 archeological resources standard, OAR 345-22-090.
18

19 **E.4.6. Recreation Standard, OAR 345-22-100**

20 The recreation standard requires that the Council find that "design, construction and
21 operation of a facility, taking into account mitigation, is not likely to result in a
22 significant adverse impact to important recreational opportunities in the impact area.
23 Factors which will be considered in judging the importance of a recreational opportunity
24 include:

- 25 (1) Any special designation or management of the location,
- 26 (2) The degree of demand
- 27 (3) Uniqueness
- 28 (4) Outstanding or unusual qualities
- 29 (5) Availability or rareness, and
- 30 (6) Irreplaceability or irretrievability of the opportunity.
31

32 **Discussion.** In the Final Order approving the site certificate, the Council
33 concluded that no recreational areas, other than Messner Pond, would be significantly
34 affected by the project. The Council concluded that a proposed tree buffer and the
35 distance between the site and Messner Pond would prevent significant adverse impacts to
36 recreational opportunities at the pond. The proposed extension of time for completing
37 construction has no effect on the factual basis for the Council's decision, in the Final
38 Order, that the recreation standard was met.
39

40 **Conclusion.** The Council finds that the CSCP meets the recreation standard,
41 OAR-345-22-100.
42

43 **E.4.7. Socio-Economic Impacts Standard, OAR 345-22-110**

44 The socio-economic impacts standard requires the Council to find "that the construction
45 and operation of the facility, taking into account mitigation, is not likely to result in

1 significant adverse impact to the ability of communities within the study area to provide
2 the following governmental services: sewers and sewage treatment, water, stormwater
3 drainage, solid waste management, housing, traffic safety, police and fire protection,
4 health care and schools."

5
6 **Discussion.** In the Final Order approving the site certificate, the Council
7 concluded that, subject to mitigation conditions, construction and operation of the CSCP
8 would not result in significant adverse impacts to the governmental services listed in the
9 standard. The Council's findings anticipated both phases of the project. The proposed
10 extension of time for completing construction has no effect on the factual basis for the
11 Council's decision, in the Final Order, that the socio-economic impacts standard was met.

12
13 **Conclusion.** The Council finds that the CSCP meets the socio-economic
14 impacts standard, OAR 345-22-110.

15
16 **E.4.8. Waste Minimization Standard, OAR 345-22-120**

17 The waste minimization standard requires an applicant, "to the extent reasonably
18 practicable...[to] minimize generation of solid waste and wastewater in the construction
19 and operation of the facility, and when solid waste or wastewater is generated, recycle
20 and reuse such wastes. [In addition,] to the extent reasonably practicable, the
21 accumulation, storage, disposal and transportation of waste generated by the construction
22 and operation of the facility must have minimal adverse impacts on surrounding and
23 adjacent areas."

24
25 **Discussion.** In the Final Order approving the site certificate, the Council
26 concluded that PGE's commitment to implementing programs to reduce and recycle solid
27 waste was adequate. This conclusion anticipated both phases of the project. The site
28 certificate includes conditions to minimize and recycle solid wastes generated during
29 construction and operation. The Council further concluded that PGE's efforts at
30 wastewater reduction and reuse through the Port of Morrow's land application disposal
31 system or by the installation of an on-site, zero-discharge system were adequate to satisfy
32 the standard. The site certificate included the following condition that applies to the
33 proposed extension of the construction completion deadline for phase two:

34
35 If commencement of construction of either phase of the proposed
36 CSCP is delayed beyond two years from the date the site certificate
37 is executed, Applicant shall submit, prior to commencement of
38 construction of that phase, a revised cooling system evaluation that
39 addresses the then available technologies, their costs, savings and
40 benefits.

41
42 **Conclusion.** The Council finds that the CSCP meets the waste minimization
43 standard, OAR 345-22-120.

1 **E.4.9. Retirement Standard, OAR 345-22-130**

2 The retirement standard requires the Council to find that "the site, taking into account
3 mitigation, can be restored adequately to a useful, non-hazardous condition following
4 facility retirement."
5

6 **Discussion.** In its amendment request, PGE notes that the original dollar
7 estimate for retirement of the facility anticipated the cost of completing both phases as
8 approved in the site certificate. The proposed extension of time for completing
9 construction has no effect on the factual basis for the Council's decision, in the Final
10 Order, that the retirement standard was met.
11

12 **Conclusion.** The Council finds that the CSCP meets the retirement standard,
13 OAR 345-22-130.
14

15 **E.5. Other Standards**

16 **E.5.1. Noise OAR 340-35-035(1)(b)(B)**

17 The Council applies and enforces the Department of Environmental Quality's (DEQ)
18 noise standards for energy facilities under its jurisdiction. The DEQ noise standard, OAR
19 340-35-035 (1)(b)(B), has two elements. The first element requires that industrial noise
20 sources not increase the noise level by more than 10 dB above existing ambient noise
21 levels. This maximum increase clause is known as the "ambient degradation rule." The
22 second element limits the maximum noise levels that may be caused by the noise source,
23 as measured at noise-sensitive properties. The limits allow a moderately higher level of
24 noise in the daytime than at night.
25

26 **Discussion.** In the Final Order approving the site certificate, the Council
27 concluded that the operation of the CSCP plant, subject to conditions included in the site
28 certificate, would cause no significant adverse impact on the noise level of the
29 surrounding area. The proposed extension of time for completing construction has no
30 effect on the factual basis for the Council's decision, in the Final Order, that the noise
31 standard was met.
32

33 **Conclusion.** The Council finds that the CSCP meets the noise standard, OAR
34 340-35-035(1)(b)(B).
35

36 **E.6. Other State and Local Regulations Within the Council's Jurisdiction**

37 **E.6.1. Oregon Department of Transportation (ODOT) -- State Highways Rights-
38 Of-Way**

39 The proposed extension of time for completing construction has no effect on the
40 Council's finding, in the Final Order, that the CSCP involves no facilities that would be
41 constructed in or affect state highway rights-of-way.
42
43
44
45

1 **E.6.2. Oregon Division of State Lands (DSL) -- Fill and Removal of Waters of**
2 **the State**

3 The proposed extension of time for completing construction has no effect on the
4 Council's finding, in the Final Order, that the CSCP project does not involve state-owned
5 lands and requires no DSL permits.
6

7 **E.6.3. Oregon Department of Forestry (ODF) -- Forest Lands and Practices**

8 The proposed extension of time for completing construction has no effect on the
9 Council's finding, in the Final Order, that no ODF permitting requirements or rules are
10 applicable to the project.
11

12 **E.6.4. Oregon Department of Parks and Recreation (ODPR) -- State Parks**

13 The proposed extension of time for completing construction has no effect on the
14 Council's finding, in the Final Order, that the project raises no significant concerns
15 related to state parks.
16

17 **E.6.5. Conclusions About Other State and Local Regulations Within the**
18 **Council's Jurisdiction**

19 The Council finds that the CSCP meets the Council's standards for other state and local
20 regulations for ODOT, DSL, ODF and ODPR.
21

22 **F. Unified Site Certificate**

23 The Council has amended the site certificate for the CSCP three times before this
24 amendment proceeding. In each of the earlier amendment proceedings, the Council
25 issued a separate amendment document showing deletions from, and additions to, the
26 original site certificate. These amendment documents are supplemental to the original
27 site certificate document and must be read with the original site certificate document in
28 order to comprehend the effective language of the current site certificate at any time.
29 Appendix A, attached to this order, contains the original language of the site certificate
30 along with the deletions and additions from amendments #1 through #4. In Appendix A,
31 deleted material is indicated by strike-out and added material is indicated by underline.
32 After each addition or deletion there is a reference, by number, to the amendment that
33 added or deleted the particular language. Appendix A is included here as a reference
34 document. Upon granting amendment #4, the Council is issuing a unified site certificate
35 that incorporates all deletions and additions approved by amendments #1 through #4.
36 The Council issues the unified site certificate in the form of a "First Amended Thermal
37 Power Plant Site Certificate for the Coyote Springs Cogeneration Project." The reasons
38 for issuing a unified site certificate are to simplify comprehension of the effective
39 language of the site certificate and to avoid the potential for confusion by including all
40 the effective language of the site certificate in a single document.
41

42 **G. Conclusions About the Request for Amendment**

43 The Council finds that the actions in PGE's request are consistent with current Council
44 rules, with other applicable statutes and rules, and with statewide land use planning goals
45 and would not cause a significant adverse impact to public health and safety or the

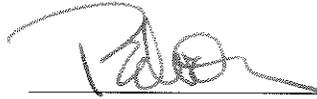
1 environment. In preparing this order, the Council has limited its consideration to the
2 effects that may be produced by the proposed change to the facility described in PGE's
3 request for amendment to extend the construction completion date for phase two of the
4 project, submitted July 2, 1998. In considering those effects, the Council has reviewed
5 state statutes, administrative rules, and local government ordinances.

6
7 Based on the above findings, the Council amends the site certificate for the Coyote
8 Springs Cogeneration Project as PGE requests, with modifications as noted above.

9
10 **FINAL ORDER**

11
12 Based on the above findings of fact, discussions and conclusions of law, the Energy
13 Facility Siting Council approves PGE's Fourth Request to Amend Site Certificate, with
14 modifications. The Council Chair shall execute the site certificate amendment in the
15 form of the "First Amended Thermal Power Plant Site Certificate for the Coyote Springs
16 Cogeneration Project," which incorporates amendments #1 through #4. The First
17 Amended Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration
18 Project is attached and is incorporated by reference into this order.

19
20 Issued October 22, 1998.

21
22
23 

24 _____
25 Terry Edvalson
26 Chair
27 Energy Facility Siting Council
28

FIRST AMENDED

THERMAL POWER PLANT

SITE CERTIFICATE

FOR THE

COYOTE SPRINGS COGENERATION PROJECT

(Incorporating Amendments #1 Through #4)

This site certificate for the Coyote Springs Cogeneration Project (CSCP) is issued and executed in the manner provided by ORS Chapter 469, as amended by 1993 Public Laws ch. 569 (SB 1016), by and between the State of Oregon (State) acting by and through its Energy Facility Siting Council (EFSC) and Portland General Electric Company (PGE), an Oregon corporation.

I. SITE CERTIFICATION

~~A. To the extent authorized by State law and subject to those warranties and conditions set forth herein, the State approves and authorizes the construction, operation and retirement by PGE of a natural gas-fired combustion turbine energy facility, together with related or supporting facilities, at the site near Boardman, Oregon, in the manner described in PGE's application for site certificate. "Facility", as used in this site certificate, consists of the energy facility and the related or supporting facilities described in PGE's application for site certificate, except where otherwise stated or where the context clearly indicates otherwise. The findings of facts, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in EFSC's final order, which by this reference is incorporated herein. Subject to the conditions herein, this certificate binds the State and all counties, cities and political subdivisions in this State as to the approval of the site and the construction, operation and retirement of the facility, as to matters that are included in and governed by this site certificate. Amendment #2~~

A. To the extent authorized by State law and subject to those warranties and conditions set forth herein, the State approves and authorizes for construction, operation and retirement by PGE of a natural gas-fired combustion turbine energy facility with oil firing back-up (as defined in OAR 345-01-010(33)), together with related or supporting facilities in Boardman, Oregon, in the manner described in PGE's application for site certificate. "Facility", as used in this site certificate, consists of

1 ~~the energy facility and the related or supporting facilities described in PGE's~~
2 ~~application for site certificate, except where otherwise stated or where the context~~
3 ~~clearly indicates otherwise. The findings of facts, reasoning and conclusions of law~~
4 ~~underlying the terms and conditions of this site certificate are set forth in EFSC's final~~
5 ~~order and subsequent orders approving amendments number one and two, which by~~
6 ~~this reference are incorporated herein. Subject to the conditions herein, this certificate~~
7 ~~binds the State and all counties, cities and political subdivisions in this State as to the~~
8 ~~approval of the site and the construction, operation and retirement of the facility, as to~~
9 ~~matters that are included in and governed by this site certificate.~~ Added by Amendment
10 #2; deleted by Amendment #3
11

12 A. To the extent authorized by State law and subject to those warranties and conditions
13 set forth herein, the State approves and authorizes for construction, operation and
14 retirement by PGE of a natural gas-fired combustion turbine energy facility, with oil
15 firing back-up for phase one (as defined in OAR 345-01-010(33)), together with
16 related or supporting facilities in Boardman, Oregon, in the manner described in
17 PGE's application for site certificate. "Facility", as used in this site certificate,
18 consists of the energy facility and the related or supporting facilities described in
19 PGE's application for site certificate, except where otherwise stated or where the
20 context clearly indicates otherwise. The findings of facts, reasoning and conclusions
21 of law underlying the terms and conditions of this site certificate are set forth in
22 EFSC's final order, which by this reference is incorporated herein. Subject to the
23 conditions herein, this certificate binds the State and all counties, cities and political
24 subdivisions in this State as to the approval of the site and the construction, operation
25 and retirement of the facility, as to matters that are included in and governed by this
26 site certificate. Amendment #3
27

28 B. Each affected state agency, county, city and political subdivision with authority to
29 issue a permit, license or other approval with respect to matters included in or
30 governed by this site certificate shall, upon submission by PGE of the proper
31 application and payment of the proper fees, issue such permit, license or other
32 approval without hearing or other proceeding, subject only to conditions set forth in
33 the site certificate. Each agency that issues a permit, license or other approval to PGE
34 shall continue to exercise enforcement authority over such permit, license or other
35 approval.
36

37 For a permit, license or other approval included in or governed by the site certificate,
38 PGE shall comply with applicable state and federal laws adopted in the future to the
39 extent that such compliance is required under the respective state agency statutes and
40 rules.

- 1 C. Both the State and PGE shall abide by local ordinances and state law and the rules of
2 EFSC in effect on the date the site certificate is executed. In addition, upon a clear
3 showing of a significant threat to the public health, safety or the environment that
4 requires application of later-adopted laws or rules, EFSC may require compliance
5 with such later-adopted laws or rules.
6
7

8 II. DESCRIPTION OF THE FACILITY
9

10 A. Description of the Site
11

12 1. Power Plant Site
13

14 The proposed CSCP plant site consists of approximately 20 acres within the Port of
15 Morrow Industrial Park. The Port of Morrow Industrial Park occupies 5700 acres of
16 land east of the City of Boardman and along the Columbia River.
17

18 The plant site is located approximately 1,500 feet due south of the Columbia River
19 and is immediately south of the bank and berm created by the Union Pacific
20 Railroad's east-west mainline. The site's western boundary is Ullman Boulevard. Its
21 southern boundary is along an existing gravel roadway and utility corridor. The site is
22 about 450 feet west of Messner Pond and a small pond created by an ongoing
23 dredging operation lies along the eastern edge of the plant site. The exact location of
24 the plant site is shown by figures C-C2 and C-C3 of the application for site certificate,
25 which are made part of and incorporated into this site certificate by reference.
26

27 2. Transmission Line Corridor
28

29 The transmission line serving the plant will be approximately 1.5 miles long. The
30 line will occupy land owned by the Port of Morrow and the City of Boardman. The
31 transmission line will run from the south end of the plant site eastward along the
32 existing roadway and utility corridor. For a short distance at its eastern extremity, the
33 line will cross fields that are or have been under cultivation. The exact location of the
34 transmission line corridor is shown in figure C-C2 of the application for site
35 certificate.
36

37 B. Description of Facilities
38

39 1. Power Plant
40

1 The proposed CSCP facilities will consist of several structures: a turbine generator
2 building; heat recovery steam generator (boiler) structures; two 210 feet high exhaust
3 stacks; a water treatment and auxiliary equipment building; auxiliary boilers; an
4 administrative and control building; water treatment chemical tanks; and electrical
5 transformation and substation facility structures.

6
7 ~~The CSCP power generation facilities will consist of two identical, natural gas-fired,
8 combined combustion turbine cycle units. Primary power for each unit will be
9 supplied by a General Electric 7FA gas turbine generator rated at 172.7 MW. For
10 each unit, the high temperature exhaust from the gas turbine generator will be ducted
11 to a heat recovery steam generator or boiler to generate steam. This steam will be
12 used to drive a steam turbine generator with an electrical generation capacity of 79.3
13 MW. Steam used in power generation will be cooled and condensed back to water by
14 a condenser or heat exchanger using the cooling tower method. Amendment #3~~

15
16 The CSCP power generation facilities will consist of two natural gas-fired, combined
17 combustion turbine cycle units. Primary power for each unit will be supplied by
18 either a General Electric 7FA gas turbine generator rated at 172.7 MW or a similar
19 model gas turbine. For each unit, the high temperature exhaust from the gas turbine
20 generator will be ducted to a heat recovery steam generator or boiler to generate
21 steam. This steam will be used to drive a steam turbine generator with an electrical
22 generation capacity of 79.3 MW. Steam used in power generation will be cooled and
23 condensed back to water by a condenser or heat exchanger using the cooling tower
24 method. Amendment #3

25
26 Electrical transformation and substation facilities will be constructed adjacent to the
27 power plant at the south end of the site.

28
29 The proposed CSCP power plant (both units) will use up to 27,400,000 million
30 British thermal units of natural gas fuel per year. The power plant shall be supplied
31 by a natural gas pipeline that will run approximately 15 miles between the site and
32 Ione, Oregon. The supply pipeline will interconnect with an interstate natural gas
33 transmission line and will be owned and operated by another company. The supply
34 pipeline will be permitted through the Federal Energy Regulatory Commission and is
35 not considered to be a related facility under the jurisdiction and siting review
36 authority of the Energy Facility Siting Council.

37
38 2. Electrical Transmission Line

39
40 Project related facilities will include a double circuit looped 500 kilovolt

1 transmission line. The 1.5 mile line will connect the power plant with the Bonneville
2 Power Administration transmission system.

3
4 In the event of a conflict between the descriptions of the facility in this site certificate, EFSC's
5 final order, ODOE's final staff report on PGE's application for site certificate, or PGE's
6 application for site certificate, the following priority of construction shall apply to determine
7 which document controls: first, PGE's application for site certificate; second, this site certificate;
8 third, EFSC's final order; and fourth, ODOE's final staff report.

9
10
11 III. WARRANTIES

12
13 ORS 469.401(3) requires that:

14
15 "The site certificate shall contain the warranties of the applicant as to the ability of the
16 applicant to comply with standards of financial ability and to construct and operate
17 the energy facility, the applicant's provisions for protection of the public health and
18 safety and for time of completion of construction."

19
20 The following warranties are necessary to meet the above statutory requirements and to ensure
21 and facilitate compliance with and enforcement of EFSC standards and the policy directives of
22 ORS chapter 469:

23
24 ~~(1) Applicant represents and warrants that it has the present capabilities and resources to~~
25 ~~construct, operate and retire the CSCP, including the ability to finance and pay for the~~
26 ~~CSCP, in a manner consistent with its representations in the Application for Site~~
27 ~~Certificate (ASC), as modified in this proceeding leading to the execution of the site~~
28 ~~certificate, and with the terms and conditions of the site certificate. Amendment #1~~

29
30 (1) Applicant represents and warrants that it has the present capabilities and resources to
31 construct, operate and retire the CSCP, including the ability to finance and pay for the
32 CSCP, substantially as described in the Site Certificate and in the order approving the Site
33 Certificate, as they may be amended from time to time, and with the terms and conditions
34 of the Site Certificate. Amendment #1

35
36 (2) Applicant represents and warrants that applicant can and will comply with all applicable
37 state, federal and local laws, regulations and ordinances and with the conditions of the site
38 certificate.

39
40 (3) Applicant represents and warrants that it will undertake and complete construction of

1 Phase I and Phase II of the CSCP according to the conditions of the construction
2 commencement and completion dates at V.A.2.

3
4 (4) Applicant warrants that it will take those actions, necessary to ensure that any third
5 party contracting with Applicant during construction, operation or retirement of this facility
6 and related and supporting facilities shall abide by the terms of this site certificate.

7
8 (5) Applicant warrants that it shall take all reasonable steps necessary to ensure the
9 protection of the public health and safety during the construction, operation and retirement
10 of the CSCP and related facilities.

11
12
13 IV. MANDATORY CONDITIONS

14
15 The following mandatory conditions are either specifically required by OAR 345-27-020 or are
16 appropriate under OAR 345-27-020(4)(o) to address project and site-specific conditions and
17 requirements. These mandatory conditions shall apply in addition to, and should be read
18 together with, the specific additional conditions provided in this site certificate to ensure
19 compliance with the siting standards of OAR Chapter 345, Divisions 22, 23 and 24.

20
21 (1) Applicant shall comply with all applicable laws, regulations and ordinances of state,
22 federal and local authorities, including all conditions contained in any permits, licenses and
23 approvals issued by such authorities, and applicant shall comply with the conditions of the
24 site certificate. The duty of applicant to comply applies notwithstanding a failure or
25 oversight in the proposed order or site certificate to identify all applicable laws, regulations
26 and ordinances. Applicant shall design, construct, operate and retire the facility in
27 accordance with the requirements of the Oregon Energy Facility Siting Statute, ORS
28 469.300 et seq., and EFSC rules applicable to the facility.

29
30 ~~(2) Applicant shall design, permit, construct, operate and retire the CSCP as described in~~
31 ~~the ASC, in EFSC proceedings and in documents and representations made by PGE in~~
32 ~~support of the application for site certificate, as modified or amended by the site certificate.~~
33 ~~Amendment #1~~

34
35 (2) Applicant shall design, permit, construct, operate and retire the CSCP substantially as
36 described in the Site Certificate, as it may be amended from time to time. Amendment #1

37
38 (3) At construction completion and no later than 90 days following the beginning of
39 commercial operation, applicant shall submit to EFSC a written report certified by an
40 Oregon registered structural engineer documenting the following: (a) facility construction

1 consistent with the project description and operating statement of the ASC, as modified or
2 amended by the site certificate; (b) fulfillment of and compliance with all design and
3 construction-related conditions of the site certificate, including all applicable mitigation
4 measures; and (c) compliance with or statement as to the ability to comply with all
5 applicable state, federal and local permits, licenses and approvals issued for the project,
6 including, but not limited to, compliance with Oregon Building Codes Agency (BCA)
7 building permits and Oregon Public Utility Commission (OPUC)—Safety Section design
8 requirements.

9
10 (4) Applicant shall submit annual compliance status reports to EFSC providing a statement
11 and documentation of applicant's compliance with each and every condition of the site
12 certificate.

13
14 ~~(5) Prior to construction, applicant shall submit certification that at least 80 percent of the~~
15 ~~capacity from the proposed CSCP shall be used by an energy supplier in the Pacific~~
16 ~~Northwest Region as defined in 16 U.S.C. 839a(14). The capacity and energy of the CSCP~~
17 ~~shall be used by applicant for the benefit of its customers in its Oregon service territory.~~
18 ~~Except as required for financing purposes, applicant shall not sell or lease the facility and~~
19 ~~shall not contract for firm energy or firm capacity for the output of the facility for a term~~
20 ~~exceeding five years. Amendment #3~~

21
22 (5)(a) Prior to construction, the site certificate holder shall submit certification that at least
23 80 percent of the capacity from the proposed CSCP shall be used by an energy supplier in
24 the Pacific Northwest Region as defined in 16 U.S.C. 839a(14). The capacity and energy
25 of the CSCP shall be used by the site certificate holder for the benefit of its customers in its
26 Oregon service territory. Except as required for financing purposes, the site certificate
27 holder shall not sell or lease the facility and shall not contract for firm energy or firm
28 capacity for the output of the facility for a term exceeding five years.

29
30 (b) In the event the site certificate holder does not complete construction of phase two
31 within five years from the execution of the site certificate, prior to EFSC granting the site
32 certificate holder an extension of the construction completion date for phase two, the site
33 certificate holder shall demonstrate compliance with ORS 469.503(2) in lieu of compliance
34 with Condition IV(5)(a). Amendment #3

35
36 (6) Applicant shall not commence construction on any part of the facility and related or
37 supporting facilities (including clearing of rights-of-way, but excepting survey and
38 geotechnical investigations), until applicant has filed with EFSC documentation of
39 ownership, control or access to the entire plant site and the entire transmission corridor.
40

1 (7) Applicant shall, to the extent practicable, restore vegetation and landscape portions of
2 the site disturbed by construction in a manner which is compatible with its surroundings;
3 and, upon completion of construction, dispose of all temporary structures not required for
4 future use and all used timber, brush, refuse, or flammable material resulting from the
5 clearing of lands or from construction of the facility.

6
7 (8) Applicant shall notify ODOE, Oregon Department of Geology and Mineral Industries
8 (DOGAMI) and the Oregon Department of Water Resources (DWR) in advance of further
9 geotechnical investigations and trenching on the project site to allow the opportunity for
10 agency representatives to inspect the work.

11
12 (9) Applicant shall promptly notify ODOE, DOGAMI and DWR if further geotechnical
13 investigations, trenching or construction activities reveal conditions that were not
14 considered in or that differ from the conditions assumed in the agreed-upon seismic hazard
15 classification, or if shear zones, artesian aquifers, deformations or clastic dikes are found
16 near or beneath the project site. EFSC may require additional and/or higher design
17 requirements as necessary to address site conditions not previously considered.

18
19 (10) Applicant shall prevent any condition from developing on the site that would preclude
20 restoring the site to a useful condition.

21
22 (11) At least 5 years prior to facility retirement, applicant shall submit a retirement plan to
23 EFSC subject to review and approval by EFSC. The plan shall describe how the site will
24 be restored adequately to a useful condition, including options for post-retirement land use,
25 information on how impacts to fish, wildlife and the environment will be minimized during
26 the retirement process and measures to protect the public against risk or danger resulting
27 from post-retirement site conditions. The certificate holder shall restore the site to a useful
28 condition following retirement.

29
30 (12) This certificate shall expire at the end of the useful life of the energy facility.
31 Application for termination of the site certificate shall be made in accordance with the
32 provisions of OAR 345-27-110.

33
34 (13) The conditions in this site certificate may not be changed during the term of the site
35 certificate except as provided in OAR Chapter 345, Division 27.

36
37 (14) If a visitor information facility is provided at the site, information regarding
38 conservation of energy and the means by which it may be accomplished shall be included
39 with any energy facility information provided.
40

1 V. CONDITIONS ISSUED PURSUANT TO EFSC STANDARDS¹

2
3 A. Need for the facility

4
5 1. Exemption: OAR 345-23-010

6
7 Applicant shall, as part of the post-construction completion compliance status
8 certification report required by Mandatory Condition 3, provide a capacity and
9 heat rate performance test report to document the ability of the facility to meet
10 the output and fuel efficiency measures as represented in the ASC.

11
12 2. Construction commencement and completion dates

13
14 ~~(1) Applicant shall begin construction of phase one of the proposed facility~~
15 ~~within one year after the site certificate is executed. This one-year time~~
16 ~~period shall be tolled during any appeal that is taken of the Energy Facility~~
17 ~~Siting Council (EFSC) Order. Notwithstanding the tolling of the one-year~~
18 ~~time period for commencement of construction, Applicant shall complete~~
19 ~~construction of phase one within four years, and phase two within five~~
20 ~~years, of execution of the site certificate. EFSC may extend the four-year~~
21 ~~period for construction completion if the Applicant shows that the need for~~
22 ~~extension is caused by acts of God or force majeure events. EFSC~~
23 ~~anticipates such a request will be considered a minor amendment under~~
24 ~~OAR 345-27-080. Amendment #4~~

25
26 (1) Applicant shall begin construction of phase one of the proposed facility
27 within one year after the site certificate is executed. This one-year time
28 period shall be tolled during any appeal that is taken of the Energy Facility
29 Siting Council (EFSC) Order. Notwithstanding the tolling of the one-year
30 time period for commencement of construction, Applicant shall complete
31 construction of phase one by September 16, 1998, and phase two shall be
32 completed by September 16, 2001. Amendment #4

33
34 (2) Within one year of execution of the site certificate Applicant must affirm,
35 by written notice to EFSC its intent to construct phase two. This notice to
36 EFSC shall include copies of correspondence to a vendor requesting

¹Although conditions in this part V of the site certificate are listed under headings citing specific standards, the condition may relate to other standards as discussed in EFSC's final order. Any application of these conditions should take into account discussions under the various other standards.

1 commencement of bona fide negotiations to purchase the gas turbine.
2 This one-year time period shall be tolled during any appeal taken of
3 EFSC's Order. Such affirmation is required in order for Applicant to
4 maintain a valid site certificate as to phase two.
5

- 6 (3) Applicant may request an extension of the five-year construction
7 completion deadline for phase two. If such a request is made during the
8 first year after the site certificate is executed (which period shall be tolled
9 during any appeal taken of EFSC's order), and Applicant shows that the
10 need for the extension is caused by acts of God or force majeure events.
11 Applicant will not be required to demonstrate that the facility meets
12 EFSC's needs standard. EFSC anticipates such a request will be
13 considered a minor amendment under OAR 345-27-080.
14

- 15 ~~(4) If Applicant requests an extension of the construction completion deadline~~
16 ~~for phase two and Applicant does not meet the requirements of paragraph~~
17 ~~3 above, the Applicant shall be required to demonstrate that the facility~~
18 ~~meets EFSC's need standard in order for EFSC to approve extending the~~
19 ~~deadline. Applicant will not be exempted from the need showing under~~
20 ~~OAR 345-23-010(2) (adopted April 1994). EFSC anticipates this~~
21 ~~demonstration of need will be considered a major amendment under OAR~~
22 ~~345-27-070. Amendment #3~~
23

- 24 (4) If the site certificate holder requests an extension of the construction
25 completion deadline for phase two and the site certificate holder does not
26 meet the requirements of Condition V.A.2(3) above, the site certificate
27 holder shall demonstrate that the facility meets the requirements of ORS
28 469.503(2) in order for EFSC to approve extending the deadline.
29 Amendment #3
30

- 31 ~~(5) EFSC will grant a request under paragraph 4 only if the applicant~~
32 ~~demonstrates that phase two is needed in accordance with EFSC's need for~~
33 ~~facility standard in effect when the EFSC decision on the request is made.~~
34 ~~In no event will EFSC grant an extension of the construction completion~~
35 ~~deadline for phase two of more than two years from the five year deadline~~
36 ~~specified in applicant's warranty. The construction completion deadline~~
37 ~~for phase two, as specified in applicant's warranty, or as may later be~~
38 ~~extended, will not be tolled for reason of appeal of the EFSC's Order.~~
39 Amendment #3
40

1 ~~(5) In no event will EFSC grant an extension of the construction completion~~
2 ~~deadline for phase two of more than two years from the five year deadline~~
3 ~~specified in applicant's warranty. The construction completion deadline~~
4 ~~for phase two, as specified in applicant's warranty, or as may later be~~
5 ~~extended, will not be tolled for reason of appeal of the EFSC's order.~~
6 ~~Added by Amendment #3; deleted by Amendment #4~~
7

8 (5) In no event will EFSC grant an extension of the construction completion
9 deadline for phase two beyond September 16, 2001. The construction
10 completion deadline for phase two, as specified in the applicant's
11 warranty, will not be tolled for reason of appeal of the EFSC's Order.
12 Amendment #4
13

14 3. Carbon Dioxide Emissions Standard for Phase Two: ORS 469.503(2)
15

16 (1) Prior to commencement of construction of phase two on an extended
17 construction completion schedule pursuant to Condition V.A.2(4), the site
18 certificate holder shall submit to the State of Oregon through the Council a
19 bond, letter of credit or escrow account executed by the site certificate
20 holder in the amount of the monetary path payment requirement (in 1998
21 dollars) as determined by the calculations set forth in Condition V.A.3.(4)
22 and based on the estimated heat rate and capacity certified pursuant to
23 Condition V.A.3.(5) below and as adjusted in accordance with the terms of
24 this site certificate pursuant to Condition V.A.3(4)(d). For the purposes of
25 this site certificate, the "monetary path payment requirement" means the
26 offset funds determined pursuant to ORS 469.503(2)(c) and the selection
27 and contracting funds determined pursuant to ORS 469.503(2)(d)(A)(ii)
28 that the site certificate holder must disburse to the Oregon Climate Trust,
29 as the qualified organization, pursuant to ORS 469.403(2)(d)(A). The
30 calculation of 1998 dollars shall be made using the index set forth below
31 in sub-section (c).
32

33 (a) In the event that the Council approves a new site certificate holder, the
34 Council shall approve the bond, letter of credit or escrow account from the
35 new site certificate holder(s) unless the Council finds that the proposed
36 bond, letter of credit or escrow account does not provide comparable
37 security to the bond, letter of credit or escrow account of the current site
38 certificate holder. Such approval of a new bond, letter of credit or escrow
39 account will not require a site certificate amendment. The bond, letter of
40 credit or escrow account shall remain in effect until such time as the site

1 certificate holder has disbursed the full amount of the monetary path
2 payment requirement to the Oregon Climate Trust as provided in ORS
3 469.503(2)(d)(A).

4
5 (b) If the site certificate holder has provided a bond, letter of credit or
6 escrow account prior to commencing construction and if calculations
7 pursuant to Condition V.A.3.(6) demonstrate that the site certificate holder
8 must increase its monetary path payments, the site certificate holder shall
9 increase the bond, letter of credit or escrow account sufficiently to meet
10 the adjusted monetary path payment requirement within the time required
11 by Condition V.A.3.(4)(d). The site certificate holder may reduce the
12 amount of the bond, letter of credit or escrow account commensurate with
13 payments it makes to the Oregon Climate Trust.

14
15 (c) The calculation of 1998 dollars shall be made using the US Gross
16 Domestic Product Deflator for Total Non-Residential Fixed Investment, as
17 published by the US Department of Commerce, Bureau of Economic
18 Analysis, or any successor agency ("the index"). The amount of the bond,
19 letter of credit or escrow account shall increase annually by the percentage
20 increase in the index and shall be pro-rated within the year to the date of
21 disbursement to the Oregon Climate Trust. If at any time the index is no
22 longer published, the Council shall select a comparable calculation of
23 1998 dollars. The bond, letter of credit or escrow account shall not be
24 subject to revocation prior to disbursement of the full monetary path
25 payment requirement, including any adjusted monetary path payment
26 requirement. The terms of the bond, letter of credit or escrow account and
27 identity of the issuer shall be subject to approval by the Council, which
28 approval shall not be unreasonably withheld.

29
30 (d) If the site certificate holder establishes an escrow account for the
31 monetary path payment requirement, the portion of any interest accruing
32 in the escrow account up to the time of disbursement to the Oregon
33 Climate Trust that is equivalent to the 1998 dollar index adjustment
34 (described in sub-section (c)) shall be for the benefit of the Oregon
35 Climate Trust and shall be disbursed to the Oregon Climate Trust for use
36 as specified in ORS 469.503(2)(d)(A). Any remaining interest that
37 exceeds the 1998 dollar adjustment at the time of disbursement of funds to
38 the Oregon Climate Trust shall be disbursed to the site certificate holder
39 on its request.
40

1 (2) The site certificate holder shall disburse to the Oregon Climate Trust offset
2 funds and contracting and selection funds as requested by the Oregon
3 Climate Trust up to the monetary path payment requirement as determined
4 by the calculations set forth in Condition V.A.3.(4) and based on the
5 estimated heat rate and capacity certified pursuant to Condition V.A.3.(5)
6 below (in 1998 dollars) and as adjusted in accordance with the terms of
7 this site certificate pursuant to Condition V.A.3.(4)(d). Disbursements
8 shall be made in response to requests from the Oregon Climate Trust in
9 accordance with the requirements of ORS 469.503(2)(d)(A).

10
11 (3) Notwithstanding anything in this amended site certificate to the contrary,
12 the site certificate holder shall have no obligation with regard to offsets,
13 the offset funds and the selection and contracting funds other than to make
14 available to the Oregon Climate Trust the total amount required under this
15 site certificate, nor shall any nonperformance, negligence or misconduct
16 on the part of the Oregon Climate Trust be a basis for revocation of this
17 site certificate or any other enforcement action by the Council with respect
18 to the site certificate holder.

19
20 (4) The site certificate holder shall use the following methodology to calculate
21 the amount of the monetary path payment requirement that it must make
22 available to the qualified organization pursuant to ORS 469.503(2)(d)(A).
23 All calculations shall be made assuming that no steam is supplied for
24 cogeneration. The site certificate holder shall use the contracted design
25 parameters for capacity and heat rate for phase two that it reports pursuant
26 to Condition V.A.3.(5) to calculate the estimated monetary path payment
27 requirement. The site certificate holder shall use the Year One Capacity
28 and Year One Heat Rate that it reports for phase two pursuant to Condition
29 V.A.3.(6) to calculate whether it owes additional monetary path payments.

30
31 (a) To calculate the offset funds payment requirement as provided in ORS
32 469.503(2)(c), the site certificate holder shall use the following
33 methodology:

34
35 (A) The site certificate holder shall multiply the nominal power of
36 phase two (kW) while operating on natural gas by 8,760 hours. It
37 shall then multiply that product by 30 years to determine the total net
38 plant output (kWh) of phase two. It shall multiply the total net plant
39 output of phase two by the heat rate (Btu/kWh) while operating on
40 natural gas and by the carbon dioxide emission factor for natural gas

1 (0.000117 lb. CO₂/Btu) to determine the total CO₂ emissions (lb.)
2 from operating phase two. The site certificate holder shall calculate
3 the CO₂ emissions rate (lb. CO₂/kWh) for phase two by dividing the
4 total CO₂ emissions by the total net plant output for phase two;

5
6 (B) The site certificate holder shall subtract the carbon dioxide
7 standard of 0.7 lb. CO₂/kWh from the CO₂ emissions rate for phase
8 two to determine its excess CO₂ emissions rate (lb. CO₂/kWh);

9
10 (C) The site certificate holder shall multiply the total net plant
11 output (kWh) for phase two by phase two's excess CO₂ emissions
12 rate (lb. CO₂/kWh). It shall then divide that product by 2,000 pounds
13 to determine the total tons of CO₂ emissions the site certificate
14 holder must mitigate (tons); then,

15
16 (D) The site certificate holder shall multiply the total tons of CO₂
17 emissions it must mitigate by \$0.57 per ton of CO₂ to determine the
18 sub-total for the offset funds.

19
20 (b) To calculate the selection and contracting funds sub-total as provided
21 in ORS 469.503(2(d)(A)(ii), the site certificate holder shall subtract
22 \$500,000 from the offset funds subtotal; then multiply the remaining
23 amount by 4.286 percent; then add \$50,000 to that product.

24
25 (c) To determine its monetary path payment requirement, the site
26 certificate holder shall add the sub-total for the offset funds and the
27 sub-total for the selection and contracting funds.

28
29 (d) When the site certificate holder submits the Year One Test report
30 required in Condition V.A.3.(6), it shall increase its bond, letter of credit
31 or escrow account for the monetary path payment requirement if the
32 calculation using reported data shows that the adjusted monetary path
33 payment requirement exceeds the monetary path payment requirement for
34 which the site certificate holder had provided a bond, letter of credit or
35 escrow account prior to commencing construction, pursuant to Condition
36 V.A.3.(1).

37
38 (A) The site certificate holder shall make the appropriate
39 calculations and increase its bond, letter of credit or escrow account,
40 if necessary, within 30 days of filing its Year One Test report with

1 the Council.

2
3 (B) In no case shall the site certificate holder diminish the bond,
4 letter of credit or escrow account it provided prior to commencing
5 construction or receive a refund from the qualified organization
6 based on the calculations made using the Year One Capacity and the
7 Year One Heat Rate.

8
9 (5) Prior to commencement of construction of phase two on an extended
10 construction completion schedule pursuant to Condition V.A.2(4), the site
11 certificate holder shall notify the Council in writing of its final selection of
12 a gas turbine vendor and shall submit written design information to the
13 Council sufficient to verify phase two's designed new and clean heat rate
14 and its nominal electric generating capacity at average annual site
15 conditions. The report shall also include an affidavit or other evidence
16 that the site certificate holder or a vendor has guaranteed the heat rate.

17
18 (6) Within two months of completion of the first year of commercial operation
19 of phase two built on an extended construction completion schedule
20 pursuant to Condition V.A.2(4), the site certificate holder shall provide to
21 the Council pursuant to ORS 469.503(2)(e)(G) a test report (Year One
22 Test) of the actual heat rate (Year One Heat Rate) and nominal generating
23 capacity (Year One Capacity) for phase two, without degradation,
24 assuming no steam is supplied for cogeneration, as determined by a
25 100-hour test at full power completed during the first 12 months of
26 commercial operation, with the results adjusted for the average annual site
27 condition for temperature, barometric pressure and relative humidity and
28 use of alternative fuels, and using a rate of 117 pounds of carbon dioxide
29 per million Btu of natural gas fuel.

30
31 (7) The combustion turbine for phase two shall be fueled solely with natural
32 gas or with synthetic gas with a carbon content per million Btu no greater
33 than natural gas.

34
35 (8) If the site certificate holder operates phase two as a cogeneration facility,
36 the site certificate holder shall not use steam from phase two to replace
37 steam generated by a biomass fuel at an off-site industrial facility.

38 Amendment #3

39
40 B. Standards relating to the applicant

1 Organizational, managerial and technical expertise standard: OAR 345-22-010
2

3 1. Applicant Qualification and Capability:
4

5 Applicant shall contractually require the EPC contractor and all independent
6 contractors and subcontractors involved in the construction and operation of the
7 proposed facilities to comply with all applicable laws and regulations and with
8 the terms and conditions of the site certificate.
9

10 2. Third-Party Services and Permits
11

12 (i) Water supply
13

14 (1) Applicant's water use shall not exceed the flow rates and maximum
15 quantities specified in the ASC for the proposed CSCP nor shall the
16 withdrawal rates exceed the limits imposed by the water right
17 permits for the sources supplying the water.
18

19 (2) Applicant shall install and operate a continuous, recording flow
20 meter on the facility's process water intake line and maintain records
21 of total process water use on a monthly and annual basis.
22

23 (ii) Process wastewater disposal
24

25 (1) Within six months of the date the site certificate is executed, the
26 applicant shall demonstrate that the Port of Morrow has received
27 DEQ approval to dispose of the CSCP's process wastewater, or
28 commit to install an on-site, zero-discharge water treatment system.
29

30 (2) If applicant uses the Port of Morrow's industrial wastewater disposal
31 system, applicant shall not discharge into the Port's system at flow
32 rates and quantities or in excess of water quality limitations or
33 discharge any materials that would violate any applicable laws and
34 regulations or the conditions of the Port of Morrow's WPCF permit.
35

36 (iii) Sanitary wastewater disposal
37

38 Applicant shall not discharge any materials into the City of Boardman
39 sewage treatment system that would violate any applicable laws and
40 regulations or the conditions of the City of Boardman's WPCF permit.

1 C. Standards relating to the site and structure
2

3 1. Structural standard: OAR 345-22-020
4

5 a. Seismic hazards
6

7 (1) Applicant shall design and construct the proposed facility in
8 accordance with and in compliance with the laws and regulations
9 administered by BCA.
10

11 (2) Before submitting building permit applications to BCA, applicant
12 shall re-evaluate peak ground acceleration for the site based on
13 applying an amplification factor determined from its site-specific
14 studies. The applicant shall report the results of its reevaluation to
15 ODOE, DOGAMI and BCA. The applicant shall design and
16 construct the facility to address any estimate of peak ground
17 acceleration exceeding that covered by seismic zone 2B.
18

19 b. Adverse soil impacts
20

21 During construction, the applicant and its subcontractors shall make
22 reasonable efforts to keep soil disturbances to a minimum.
23

24 2. Land use standard
25

26 Applicant shall comply with the conditions in the variance for the CSCP
27 transmission line granted to applicant by Morrow County on October 25, 1993.
28

29 D. Standards relating to the impacts of construction, operation and retirement
30

31 1. Fish and Wildlife Standard: OAR 345-22-060
32

33 (1) Applicant shall implement the vegetation, fish and wildlife mitigation
34 measures as contained in its ASC (Exhibits N, P and R), and the following
35 mitigation conditions of ODFW:
36

37 a. The applicant shall design and construct the electrical transmission
38 towers and lines in a manner appropriate for the protection of raptors.
39

40 b. Applicant shall reseed areas of disturbed soil using the seed

1 composition and planting procedure described in ASC, Exhibit N.
2 Applicant shall reseed areas where Russian olive trees or tall vegetation is
3 removed using a mix of woody shrubs and perennial grasses to be jointly
4 determined by ODFW and PGE.
5

6 c. Applicant shall plant trees between the west side of Messner Pond and
7 the facility site, as described in the ASC, to enhance wildlife habitat
8 around Messner Pond and to provide a visual and auditory buffer between
9 the facility site and Messner Pond. The applicant shall maintain trees in
10 healthy condition and replace trees that die or become unhealthy.
11

12 d. The following activities shall be prohibited within 100 feet of the
13 wetland associated with Messner Pond: storage of hazardous materials,
14 chemicals, fuels and lubricating oils; refueling of construction equipment;
15 and performing concrete coating activities.
16

17 e. Applicant shall insure that notification is provided to the ODFW
18 representative in charge of the Heppner District Office at least one week
19 prior to the start of construction for the power plant and transmission lines.
20

21 f. Applicant shall leave a 50 foot buffer between the edge of construction
22 and the high water line of the wetland area associated with Messner Pond.
23

24 g. Applicant shall erect a temporary fence and signs to protect the bank
25 swallow nesting colony from disturbance during construction.
26

27 (2) Applicant shall, as part of the post-construction completion compliance
28 status certification report required by Mandatory Condition No. 3, provide
29 documentation of the following: a) cooling tower drift rate, including
30 manufacturer specifications and guaranty, and actual field testing of the
31 CSCP cooling tower drift rate; and b) water analysis of the cooling tower
32 circulation water representative of identified actual source water and
33 cycles of concentration.
34

35 (3) Applicant shall install, operate and maintain a continuous monitoring
36 system to measure and record the total dissolved solids (TDS)
37 concentration of the cooling tower/condenser circulating water.
38

39 (4) Applicant's cooling tower drift factor shall not exceed 0.002 percent of the
40 circulation rate. Applicant shall not allow the total dissolved solids

1 concentration in the cooling tower/condenser system to exceed 2,084 parts
2 per million.

- 3
4 (5) Applicant shall fully comply with the terms and conditions of the
5 December 10, 1993 Ecological Monitoring Program, as revised on January
6 5, 1994, and shall take such actions as deemed appropriate by ODOE, in
7 consultation with ODFW, to fully mitigate adverse impacts to the Messner
8 Pond area, including but not limited to reducing the cycles of
9 concentration in the cooling tower system.

10
11 2. Scenic and Aesthetic Standard: OAR 345-22-080

12
13 Applicant shall implement and fulfill the mitigation proposals as contained in
14 the ASC, including site perimeter landscaping with appropriate vegetation;
15 painting building structures and the exhaust stacks in neutral shades;
16 minimizing exterior lighting and directing lights into the facility site; and
17 establishing landscape screening along the perimeter of the proposed power
18 plant site.

19
20 3. Historic, Cultural, and Archaeological
21 Standard: OAR 345-22-090

- 22
23 (1) If the area in which artifacts were found is to be disturbed by construction
24 or operation, the applicant shall obtain the recommendation of SHPO as to
25 any clearance requirements for the affected area and shall comply with all
26 applicable regulations and laws relating to historic, cultural, and
27 archaeological resources.

- 28
29 (2) If historic, cultural or archaeological resources are found during project
30 construction or construction-related activities, the applicant shall stop all
31 work in the vicinity of the find and consult with the SHPO. The applicant
32 shall not restart work in the area of the find until SHPO has concurred that
33 the applicant has identified actions to minimize or avoid further impact.

- 34
35 (3) Applicant shall comply with all applicable state laws regarding Indian
36 graves, removal of historic materials and archaeological objects and sites.

37
38 4. Socio-Economic Impact Standard: OAR 345-22-110

- 39
40 a. Solid waste

1 Applicant shall, at a minimum, test its sludge waste and maintain records
2 as required by DEQ and the landfill operator pursuant to applicable
3 permits and licenses, including testing under the Toxicity Characteristic
4 Leaching Procedure (TCLP), or equivalent per 40 CFR part 262.11,
5 Hazardous Waste Determination.
6

7 b. Emergency services
8

9 The applicant shall reimburse the Boardman Fire Department for
10 reasonable costs for new training and equipment which is specifically
11 needed, as determined by the State Fire Marshall, to respond to an
12 emergency at the CSCP.
13

14 c. Roadways
15

16 Applicant shall mitigate all fogging and icing impacts caused by CSCP to
17 off-site roadways that create hazardous traffic conditions. Mitigation
18 measures, if needed, shall be undertaken and implemented in consultation
19 with the Port of Morrow and other responsible local agencies, and may
20 include, but are not limited to: hazard warning signs, lighting and sanding.
21

22 5. Waste Minimization Standard: OAR 345-22-120
23

24 a. Solid wastes
25

26 Applicant shall minimize and recycle solid wastes generated during
27 construction and operation whenever practical, including:
28

29 a) packing materials, wood, piping and steel scrap during construction;
30

31 b) spent ion exchange resins used for demineralizing water during plant
32 operation;
33

34 c) waste from the facility's office, including paper products, aluminum
35 cans, glass and plastics.
36

37 b. Industrial wastewater
38

39 If commencement of construction of either phase of the proposed CSCP is
40 delayed beyond two years from the date the site certificate is executed,

1 applicant shall submit, prior to commencement of construction of that
2 phase, a revised cooling system evaluation that addresses the then
3 available technologies, their costs, savings and benefits.
4

5 6. Retirement Standard: OAR 345-22-130
6

7 Upon retirement of the facility, the applicant shall restore the CSCP site to a
8 useful condition.
9

10 E. Noise
11

12 (1) Applicant shall comply with the noise standards and limits contained in OAR
13 340-35-035 (1)(b)(B).
14

15 (2) Applicant shall, by facility design and the installation of silencers and/or other
16 devices, limit noise emissions from the facility's pressure-relief safety valves
17 such that sound levels attributable to their use do not exceed the limits contained
18 in OAR 340-35-035 (1)(b)(B).
19

20 (3) Applicant shall retain a registered acoustical consultant to conduct noise
21 monitoring to determine compliance with conditions (1) and (2) above and
22 provide a report of that monitoring to ODOE within 120 days after beginning
23 commercial operation of the proposed facility.
24

25 F. Public health and safety
26

27 To the extent possible, consistent with BPA's specifications, applicant shall design
28 and construct the line in accordance with the requirements of OAR 345-24-090:
29

30 (a) The transmission line shall be designed so that alternating current
31 electrical fields shall not exceed 9 kv per meter above the ground
32 surface in areas accessible to the public;
33

34 (b) The transmission line shall be designed so that induced currents
35 resulting from the transmission line and related facilities will be as
36 low as reasonably achievable. The applicant agrees to a program
37 which shall provide reasonable assurance that all fences, gates, cattle
38 guards, trailers, or other objects or structures of a permanent nature
39 that could become inadvertently charged with electricity shall be
40 grounded through the life of the line; and

- 1 (c) The transmission line shall be designed and constructed, and
2 operated in a manner consistent with the 1993 edition of National
3 Electrical Safety Code (American National Standards Institute,
4 Section C2, 1993 edition).
5
6

7 VI. MONITORING CONDITIONS
8

9 OAR Chapter 345, Division 26 contains monitoring and reporting requirements for thermal
10 power plants with site certificates. The following monitoring and reporting requirements are
11 intended to achieve the purpose, expressed in OAR 345-26-005, "...to assure that the construction
12 and operation of thermal power plants is accomplished in a manner consistent with the protection
13 of the public health, safety and welfare, and the protection of the environment."
14

15 As provided in OAR 345-26-015(3), in the event that any of the specific monitoring or reporting
16 conditions contained in the site certificate conflict or are inconsistent with the rules and
17 requirements of OAR Chapter 345, Division 26, the site certificate conditions shall be deemed to
18 control.
19

- 20 (1) The applicant shall submit to EFSC a report at least quarterly from the start of
21 construction to commercial operation of the second unit. The report shall include, but is
22 not limited to:

23
24 (a) an assessment of the construction schedule for each unit, including any changes to
25 major milestones that affect the critical path for construction;

26
27 (b) an assessment of the then known costs and costs projections for the CSCP in
28 relation to the applicant's then current least cost plan;

29
30 (c) an assessment of the construction staffing, including status of staffing and any
31 staffing problems that may affect construction schedule;

32
33 (d) any significant work stoppage;

34
35 (e) any noncompliance with the conditions of the site certificate, including the
36 background of the causes of the noncompliance, the mitigation or correction of the
37 noncompliance and the impact of the noncompliance on the project schedule or
38 financing;

39
40 (f) any noncompliance with the conditions of permits issued by any other federal,

1 state or local authority; including the background of the causes of the noncompliance,
2 the mitigation or correction of the noncompliance; and the impact of the
3 noncompliance on the project schedule or financing;
4

5 (g) any noncompliance with the conditions of permits issued to third parties that are
6 known to the applicant and that are significant and relevant to the construction or
7 operation of the facility, such as Water Rights Permits or Water Pollution Control
8 Facility Permits; including the background of the causes of the noncompliance, the
9 mitigation or correction of the noncompliance, and the impact of the violation on the
10 project schedule or financing;
11

12 (h) copies of all correspondence and reports related to facility construction submitted
13 to a federal, state, or local authority, except material withheld from public disclosure
14 under federal or state law. Abstracts of reports may be submitted in place of full
15 reports. However, full copies of abstracted reports must be provided at the request of
16 ODOE or EFSC;
17

18 (i) any other information that EFSC requests that is considered necessary to monitor
19 and evaluate the applicant's compliance with the terms and conditions of the site
20 certificate.
21

22 (2) The applicant shall submit to the EFSC an annual report from the start of commercial
23 operation of the first unit through retirement of the last operating unit. The annual report
24 shall include, but is not limited to:
25

26 (a) results of performance tests, including project efficiency testing, summaries of
27 fuel use, average volume and mass of steam supplied to any cogeneration host and
28 the estimated fuel used to generate any host steam load;
29

30 (b) in the first report submitted after commencement of commercial operation, unit
31 heat rate in Btu per kilowatt hour produced, corrected to ISO conditions and
32 accounting for steam delivered to any steam host, and also facility capacity corrected
33 to 52.8pF, 55% relative humidity, standard air pressure adjusted for elevation, no
34 steam to process, natural gas fuel, and normal steam turbine exhaust pressure, net of
35 plant auxiliary loads;
36

37 (c) the power production by the facility by unit, by month, including peak capacity,
38 average capacity, gross and net kilowatt hour production, availability, reasons and
39 durations of planned and unplanned outages, plans to improve capacity and
40 availability and to correct recurring problems;

1 (d) an assessment of the operations staffing, including status of staffing and any
2 staffing problems that may affect facility operation;

3
4 (e) any noncompliance with the conditions of the site certificate, including the
5 background of the causes of the noncompliance, the mitigation or correction of the
6 noncompliance and the impact of the noncompliance on the project operation or
7 financing;

8
9 (f) any noncompliance with the conditions of permits issued by any other federal,
10 state or local authority; including the background of the causes of the noncompliance,
11 the mitigation or correction of the noncompliance, and the impact of the
12 noncompliance on the project operation or financing;

13
14 (g) any noncompliance with the conditions of permits issued to third parties that are
15 known to the applicant and that are significant and relevant for the operation of the
16 facility, such as Water Right Permits or Water Pollution Control Facility Permits;
17 including the background of the causes of the noncompliance the mitigation or
18 correction of the noncompliance, and the impact of the noncompliance on the project
19 operation or financing;

20
21 (h) copies of all correspondence related to facility operation which was submitted to
22 a federal, state, or local authority, except material withheld from public disclosure
23 under federal or state law. Abstracts of reports may be submitted in place of full
24 reports. However, full copies of abstracted reports must be provided at the request of
25 ODOE or EFSC;

26
27 (i) an assessment of the project's cost of operation in relation to the applicant's then-
28 current least cost plan;

29
30 (j) any other information that EFSC requests that is considered necessary to monitor
31 and evaluate the applicant's compliance with the terms and conditions of the site
32 certificate.

33
34 (3) Information To Be Reported Promptly

35
36 (a) The applicant shall report to ODOE within 72 hours of receiving knowledge of
37 noncompliance with the conditions of the site certificate arising from the acts or
38 omissions of applicant, its contractors, subcontractors or agents;

39
40 (b) The applicant shall report to ODOE within 24 hours of receiving knowledge of

1 any condition arising from the construction and operation of the facility that
2 endangers public health and safety.
3
4

5 VII. AMENDMENT OF SITE CERTIFICATION AGREEMENT
6

7 PGE and EFSC recognize that, because of the length of time that may pass between the date on
8 which this Agreement is executed and the date on which construction will commence, and that
9 will pass between the time construction is commenced and the energy facility is retired, it may be
10 necessary to amend this Agreement.
11

12 Amendments shall be made in accordance with OAR Chapter 345, Division 27 or EFSC rules
13 applicable and in effect at the time the amendment is sought.²
14
15

16 VIII. SUCCESSORS AND ASSIGNS
17

18 No site certificate, or any portion thereof, may be transferred, assigned, or disposed of in any
19 other manner, directly or indirectly, except in compliance with OAR 345-27-100 or EFSC rules
20 applicable and in effect at the time such action is proposed.
21
22

23 IX. SEVERABILITY AND CONSTRUCTION
24

25 If any provision of this agreement and certificate is declared by a court to be illegal or in conflict

²The Order Approving Amendment No. 1 included the following:

Notwithstanding the latter statement in Section VII, OAR 345-27-011 states that the Council's current rules in Division 27 do not apply to facilities for which a site certificate was executed before November 30, 1994, unless the site certificate is amended to include the applicability of the rules in this division. This amendment would apply the current rules at OAR 345-27-050 through OAR 345-27-080, and OAR 345-27-095 to this site certificate.

PGE's request is consistent with the terms of the site certificate. It would be consistent with the other recommended amendments for the Council to amend the site certificate to incorporate specifically the applicability of OAR 345-27-050 through OAR 345-27-080 and OAR 345-27-095 to clarify that the Council will process subsequent requests for amendments or petitions by PGE under the Council's most current procedural rules.

OE concludes that the application of these current rules would not create a threat to public health and safety or to the environment. OE supports this amendment. The Council agrees and finds that this amendment is appropriate. Amendment #1

1 with any law, the validity of the remaining terms and conditions shall not be affected, and the
2 rights and obligations of the parties shall be construed and enforced as if the agreement and
3 certificate did not contain the particular provision held to be invalid.
4

5 In the event of a conflict between the warranties and conditions contained in this site certificate
6 and EFSC's final order, the warranties and conditions contained in this site certificate shall
7 control.
8
9

10 X. 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

17 XI. CONDITIONS ISSUED PURSUANT TO APPLICANT REPRESENTATIONS

18
19 References to page numbers and exhibits are to the Application for Site Certificate for
20 CSCP.
21

22 1. PGE shall notify the Council of any modifications to the ownership of the controlling
23 interest of PGE.
24

25 2. PGE shall notify the Council of any change of the identity of the operator of the
26 facility.
27

28 3. NOx emissions shall be controlled to 25 ppm on natural gas. (p. B-3)
29

30 4. Each heat recovery steam generator shall be provided with an ammonia injection
31 system and selective catalytic reduction system to further reduce the NOx emissions at the
32 stack outlet. (p. B-4)
33

34 5. All chemicals listed in section 4.7 of Exhibit B shall be stored in approved storage
35 containers consistent with industry standards for the particular chemical. All chemical
36 storage systems shall have provisions for secondary containment to prevent uncontrolled
37 spills to the environment. (p. B-8)
38

39 6. PGE shall implement fire protection and life safety design features as described at
40 Section 4.10 of Exhibit B. (pp. B-9 and B-10)

1 7. The low NOx burners on the auxiliary boiler shall control emissions to a maximum of
2 40 ppm at the stack outlet. (p. B-12)
3

4 8. All equipment drain wastewater shall be processed in an oil/water separator designed
5 to remove oil contamination down to 10 ppm in the discharge water. Storm water collected
6 within the fuel tank area shall be ... processed through the facility oil/water separator down
7 to 10 ppm oil in the discharge water. (pp. B-11)
8

9 9. Code classifications and requirements described in Section 5.2 of Exhibit B shall
10 apply to the energy facility and to any modifications. (p. B-14)
11

12 10. Aircraft warning lights shall be installed on the heat recovery boiler stacks if required
13 by the FAA. (pp. B-22)
14

15 11. Equipment layout shall allow access for fire fighting or responses to any spills when
16 required. (p. B-29)
17

18 12. The facility shall be designed, constructed, tested and operated in accordance with the
19 codes and standards normally used for this type of facility. Where State of Oregon codes or
20 local codes specify added or more stringent requirements, these requirements shall be
21 incorporated into the facility design and construction. Codes listed in Exhibit B, Section
22 8.0 shall apply. (pp. B-30)
23

24 13. All of the equipment listed on Table B-2 may be constructed. PGE may construct the
25 fuel oil-related equipment shown on Figure B-M10. However, PGE shall not use fuel oil
26 for electric generation or steam production without prior Council approval.
27

28 14. Acid and caustic shall each be stored in individual carbon steel storage tanks. The
29 tanks shall be located above ground within a concrete containment bermed area. The
30 bermed area shall contain sump pumps allowing any leakage to be transferred to the
31 neutralization system. These tanks shall be located outdoors with appropriate weather
32 protection. Handling of these materials shall be in accordance with approved industry
33 standard practice as well as federal, state and local regulations. (p. F-4)
34

35 15. The ammonia storage system shall be designed to the requirements outlined in
36 American National Standard Institute (ANSI) K61.1, Safety Requirements for the Storage
37 and Handling of Anhydrous Ammonia. (p F-4)
38

39 16. The hydrogen storage and transfer system shall comply with the guidelines
40 established in section VIII of the American Society of Mechanical Engineers (ASME)

1 Boiler and Pressure Vessel Code and in ANSI B31.1 of the American National Standard
2 Code for Pressure Piping. Other codes that shall be followed include the National
3 Electrical Code (NEC) Article 500, NFPA 496, ANSI/AWS D1.1. The area immediately
4 around the hydrogen generators and storage system area shall be an NFPA/NEC Class I,
5 Division II, Group B Hazardous Area. (p. F-4)
6

7 17. For miscellaneous materials described in section 2.7 (p. F-6), appropriate safety
8 measures shall be taken around the storage sites. Handling and storage of these items shall
9 be strictly in accordance with approved procedures to provide safe storage of the
10 substances. (p. F-5)
11

12 18. To ensure proper safe handling of the natural gas, the entire system shall be installed
13 and operated in accordance with the NFPA 54; Natural Fuel Gas Code, Part 2; Gas Piping
14 System Design, Materials and Components, Part 3; Gas Pipe installation, Part 4; and
15 Inspection, Testing and Purging. The piping shall be designed in accordance with ANSI
16 B31.8. (p. F-6)
17

18 19. Fuel control systems on the gas turbines shall include separate fuel shutoff valves to
19 stop all fuel flow to the unit under shutdown conditions. Fuel flow shall restart when all
20 permissive firing condition have been satisfied. Each fuel shutoff valve shall have a
21 mechanical device for local manual tripping and a means for remote tripping. A vent valve
22 shall be provided on the fuel gas system to vent automatically the piping downstream of the
23 shutoff valve when the fuel shutoff valve closes. Gas shutoff valves shall be installed at the
24 utility pipeline connection point as well as at the facility. The area immediately around the
25 gas system shall be a NFPA/NEC Class I, Division II, Group D Hazardous Area.
26 Operations in the area shall be in accordance with this classification and accepted industrial
27 standards of practice and procedures. (p. F-7)
28

29 20. Management of non-fuel substances shall be conducted as described in section 3.2 of
30 the ASC. (pp. F-6 and F-7)
31

32 21. Construction phase wastes shall be handled and disposed as described in Section 4.1
33 of the ASC. (pp. F-7 and F-8).
34

35 22. Hazardous waste shall be stored no more than 90 days and transported to a licensed
36 treatment storage disposal facility. (p. F-9)
37

38 23. Waste oil shall be collected in a single underground storage tank and trucked offsite
39 to an approved recycling and disposal facility. The underground tank shall be of fiberglass
40 double wall construction to provide corrosion protection and secondary containment.

1 Leakage monitoring shall also be provided. (p. F-10)
2

3 24. PGE shall set back heavy plant facilities a minimum of 60 feet from the edge of the
4 irrigation pond to the east of the facility site. (p G-6)
5

6 25. PGE shall plant fill slopes with vegetation to prevent surface erosion. (p. G-7)
7

8 26. PGE shall implement mitigation measures as described in section 4.0 of the ASC.
9 (p. G-8)
10

11 27. PGE shall implement mitigation measures to vegetation impacts described in section
12 6.0 of the ASC. (p. N-4)
13

14 28. PGE shall implement mitigation measures described in section 5.0 of the ASC. (p.
15 P-4)
16

17 29. PGE shall implement mitigation measures described in section 5.0. (p. R-10)
18

19 30. PGE shall implement mitigation measures described in Exhibit W, unless those are
20 superseded by more detailed measures described in the Council's final order of September
21 16, 1994 or in the site certificate. Amendment #1
22

23
24 XII. CONDITIONS ISSUED PURSUANT TO USING ALTERNATE FUEL IN A NATURAL
25 GAS-FIRED FACILITY Amendment #2
26

27 ~~1. The CSCP shall not exceed permitted emission levels, total emissions or the~~
28 ~~allowable amount of distillate fuel use stated in its Air Contaminant Discharge Permit~~
29 ~~(amended for distillate fuel burning). The CSCP's use of distillate fuel in its combustion~~
30 ~~turbines in any year shall not exceed an amount of 10 percent of the expected total fuel use,~~
31 ~~on a Btu higher heating value basis. Added by Amendment #2; deleted by Amendment #3~~
32

33 1. The CSCP shall not exceed permitted emission levels, total emissions or the
34 allowable amount of distillate fuel use stated in its Air Contaminant Discharge Permit
35 (amended for distillate fuel burning). The CSCP's use of distillate fuel in its phase one
36 combustion turbine in any year shall not exceed an amount of 10 percent of the expected
37 total fuel use, on a Btu higher heating value basis. Amendment #3
38

39 ~~2. PGE shall not use #2 low sulfur distillate fuel oil in its turbines at CSCP prior to~~
40 ~~receiving an amended Air Contaminant Discharge Permit from the Department of~~

1 Environmental Quality authorizing it to burn distillate fuel. Added by Amendment #2; deleted by
2 Amendment #3
3

4 2. PGE shall not use #2 low sulfur distillate fuel oil in its phase one turbine at CSCP
5 prior to receiving an amended Air Contaminant Discharge Permit from the Department of
6 Environmental Quality authorizing it to burn distillate fuel. Amendment #3
7

8 3. PGE shall prepare a Spill Prevention Control and Countermeasures Plan meeting
9 federal standards and fully implement it within one year of storing distillate fuel at CSCP.
10 Amendment #2
11

12 4. PGE shall prepare a response plan meeting the requirements of a Federal Response
13 Plan for CSCP suitable for submission to the U.S. Environmental Protection Agency
14 Regional Administrator prior to beginning filling the second distillate oil storage tank.
15 Amendment #2
16

17
18 IN WITNESS WHEREOF, this Site Certificate has been executed by the State of Oregon,
19 acting by and through its Energy Facility Siting Council, and Portland General Electric.
20

21
22
23
24 _____
Chair, Energy Facility Siting Council

25
26
27 Date _____
28

29
30
31
32 _____
On behalf of the applicant
Portland General Electric

33
34
35
36
37 Date _____
38