BEFORE THE ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of the Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project Request for Amendment No. Five)

FINAL ORDER

Summary
The Energy Facility Siting Council ("Council" or "EFSC") approves this amendment request with modified and new conditions in the site certificate.

A. Summary and Background of the Request for Amendment
Portland General Electric Company ("PGE") requests that the Council amend the site certificate for the Coyote Springs Cogeneration Project ("CSCP"). PGE requests that the Council extend the date by which phase two of the plant must be completed from September 16, 2001, to September 16, 2003. PGE also requests that the Council amend the site certificate to apply the recently adopted carbon dioxide emissions standard in OAR 345-024-0550 to phase two, and to apply the new carbon dioxide rules for hybrid power plants to phase two.

PGE's address is as follows:
Portland General Electric Company
121 SW Salmon Street
Portland, Oregon 97204

A.1. Description of the Facility
On September 16, 1994, the Council adopted a Final Order and issued the "Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project" ("Site Certificate") to PGE for a natural gas-fired cogeneration power plant and related and supporting facilities (collectively, the "facility") located in the Port of Morrow Industrial Park in Boardman, Oregon. The facility is known as the Coyote Springs Cogeneration Project. The CSCP is a two-unit, natural gas-fired combustion turbine, combined-cycle, electric power plant with a total capacity of 462 megawatts. The first phase (unit 1) is in operation. PGE has not begun construction of the second phase (unit 2). The request for extension of the construction completion deadline applies only to phase two.

The approved site for both phases is about 20 acres. PGE cleared, graded and fenced the entire site at the time it built phase one. The second phase will be built adjacent to the first phase on land within the approved, fenced site.

A.2. Earlier Amendments of the Site Certificate
A.2.1. Amendment #1
The Council granted PGE a first amendment to the CSCP site certificate on December 6, 1996. That amendment incorporated into the site certificate specific conditions that were originally
commitments made by PGE in its site certificate application and supporting documents. The
Council’s order approving the amendment further approved an amendment to incorporate the
applicability of current OAR 345-027-0050 through OAR 345-027-0080 and OAR 345-027-
0095.

A.2.2. Amendment #2
The Council granted PGE a second amendment to the CSCP site certificate on March 7, 1997.
Amendment #2 allowed PGE to use #2 low-sulfur distillate oil for back-up fuel for the natural
gas-fired combustion turbines at CSCP.

A.2.3. Amendment #3
The Council issued a third amendment to the CSCP site certificate on August 28, 1998.
Amendment #3 removed from the site certificate conditions relating to phase two that required
PGE to demonstrate either that the facility met the need for facility standard or qualified for an
exemption under former OAR 345-023-0010(2) (April 1994, rule) before the Council could
extend the deadline for completion of construction. In place of the need for facility standard,
amendment #3 imposed site certificate conditions ensuring compliance with the applicable
carbon dioxide (CO₂) emissions standard in ORS 469.503(2)(a). Amendment #3 added language
to the mandatory conditions of the site certificate, requiring PGE to demonstrate compliance with
ORS 469.503(2) before the Council would grant an extension of the construction completion
date for phase two. In the order approving the amendment, the Council found that the CSCP
meets the CO₂ standard. Also, amendment #3 restricted the use of #2 low-sulfur distillate oil to
phase one.

A.2.4 Amendment #4.
The Council issued a fourth amendment to the CSCP site certificate on October 22, 1998.
Amendment #4 extended the date by which phase two of the plant must be completed from

On October 22, 1998, the Council also issued the “First Amended Thermal Power Plant Site
Certificate for the Coyote Springs Cogeneration Project” (“Amended Site Certificate”), which
incorporated all deletions and additions approved by amendments #1 through #4 into a single site
certificate.

B. Procedural History
B.1. Applicable Law
Under ORS 469.405, the Council may approve an amendment to a site certificate. The Council
has adopted rules for the amendment process in OAR 345, Division 27 (February 2000).

Section VII of the Amended Site Certificate provides that “Amendments shall be made in
accordance with OAR Chapter 345, Division 27 or EFSC rules applicable and in effect at the
time the amendment is sought.” Moreover, the Council, in its order approving Amendment #1,
confirmed that it will process subsequent requests for amendments or petitions by PGE under the
Council’s most current procedural rules. Therefore, current OAR 345-027-0030 is applicable to
PGE’s request to extend the date by which the plant must be completed. Current OAR 345-027-
0070 provides rules for the Council’s review of a request for amendment.
B.2. Office of Energy Review Steps

B.2.1. PGE’s Request

PGE submitted its Fifth Request to Amend Site Certificate to the Office of Energy (Office) on March 10, 2000. At the request of the Office, PGE provided a Supplemented Fifth Request to Amend the Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project (Supplemented Request), dated April 18, 2000, to the Office on April 20, 2000.

B.2.2. Review by Other Agencies, Local Governments and Tribes and Initial Public Notice

As required by OAR 345-027-0070(1)(a), the Office notified potentially affected agencies, local governments and tribes and asked them to review PGE’s request for amendment #5. On March 16, 2000, the Office mailed a copy of PGE’s amendment request along with a agency response form to the agencies, local governments and tribes listed in OAR 345-020-0040 and asked them to reply by April 7, 2000.

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

On March 17, 2000, the Office mailed a notice of PGE’s amendment request for amendment to all persons on the Council’s general mailing list and adjacent property owners identified by PGE, as required by OAR 345-027-0070(1)(b). The Office also mailed the notice to all persons on the Council’s CSCP-specific mailing list. The notice specified that comments on the request would be due by April 7, 2000.

On March 23, 2000, as required by OAR 345-027-0070(1)(c), the Office mailed notice to PGE stating that the amendment request would not require extended review and the Office anticipated issuing a proposed order for amendment #5 by late April 2000. In the notice, the Office indicated that it anticipated that the request would be ready for Council action before the end of June 2000. The notice also requested that PGE provide certain additional information. On March 30, 2000, PGE and the Office discussed the March 23 letter via a telephone conference call.

B.2.3. Replies

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

DOGAMI, NWPPC and DEQ replied to the Office’s request for comment. None raised any issue with PGE’s amendment request.
B.2.3.2. Cities and Counties

The City of Ironton and the Port of Morrow replied to the Office’s request for comment. The City of Ironton raised no issue. The Port stated support for the extension and the construction and operation of phase two. The City of Boardman also submitted a letter dated April 14, 2000, at the request of the Office. The letter stated support for the extension and for construction and operation of phase two.

B.2.4. Proposed Order

The Office issued its proposed order on April 26, 2000.

B.2.5. Notice

On April 26, 2000, the Office mailed notice of the proposed order to the Council’s general mailing list and a special mailing list established for the facility, as required under OAR 345-027-070(4). The notice set a deadline for public comments of May 26, 2000, and gave notice of the opportunity to ask that the Council hold a contested case proceeding on the proposed order.

B.2.6. Public Comments on the Proposed Order

The Council received two written comments by the May 26, 2000 comment deadline: one from Northwest Environmental Advocates (“NEA”) and Renewable Northwest Project (“RNP”) and one from PGE, Coyote Springs 2, LLC (“CS2”) and Avista Power, jointly.

NEA and RNP pointed out that the index based on the US Gross Domestic Product Deflator for Total Non-Residential Fixed Investment that the Office proposed using to maintain the buying power of money for CO₂ mitigation has been falling while the indices of inflation are rising. Thus any extension or delay in constructing phase two would result in a continually decreasing amount of money for CO₂ mitigation, contrary to the Council’s implicit intent that such monies retain their purchasing power. They also report that the preliminary indications from the Oregon Climate Trust’s current process for selecting offset projects are that the average price of credible projects will likely be significantly higher than 57 cents per ton of carbon dioxide deemed as the offset fund rate.

According to NEA and RNP, the problem with the US Gross Domestic Product Deflator for Total Non-Residential Fixed Investment is that that index is composed of structures, equipment, and software and is dominated by computers and information-related equipment and software. Because computers and software have been declining in price, the whole index is declining over time. The index represents only 12 percent of the economy, which is a narrow slice. They recommended that the Council apply the comprehensive and balanced US Gross Domestic Product index as the more appropriate one for adjusting the offset fund rate to reflect general cost changes and preserve the purchasing power of the offset funds.

The Council agrees with NEA and RNP that the use of the US Gross Domestic Product for Total Non-Residential Fixed Investment, as required by Condition V.A.3(1)(c) and as the Office proposed for Condition V.A.4(1)(c), is not the proper index for tracking the real dollar value of offset funds. That index represents a narrow slice of the economy and in particular is not related to the breadth of activities that could potentially be funded through offset funds. That index has the effect of lowering the amount of funds available for acquiring offsets over time. The Council
knows of no data that suggest that the cost of offsets is declining. The Council notes that it used the comprehensive index of the US Gross Domestic Product Implicit Price Deflator in the site certificate for the Klamath Cogeneration Project (granted August 1997) which was the first site certificate to impose conditions for offsetting CO₂ emissions. This is a balanced index that better reflects general cost changes and preserves the purchasing power of the monetary path payments in Condition V.A.3(1)(c). The Council finds that this index is the appropriate index for offset funds.

For Condition V.A.3(1)(c), the Council is changing an existing condition when it redefines the index. It does so pursuant to OAR 345-027-0030(5), which requires the site certificate holder of a base load gas plant to comply with the carbon dioxide standard in effect at the time of the Council’s order. Condition V.A.3(1)(c) implements OAR 345-024-0710(6) for phase two as a base load gas plant. That rule requires the Council to specify an “appropriate inflation index.”

OAR 345-024-0710(6) states:

For monetary path payments a certificate holder must make before beginning construction, the certificate holder shall make all offset fund payments and all payments required by section (4) to the qualifying organization in real dollars of the year in which the Council issues a final order applying the carbon dioxide emissions standard to the energy facility. In the site certificate, the Council shall specify an appropriate inflation index for calculating real dollars.

Comments by NEA and NRP in this proceeding have alerted the Council that the Office in its proposed order does not specify an appropriate index. The Council’s substitution of a new index corrects this choice of an inappropriate index. Furthermore, in August 1998, at the time the Council approved the current Condition V.A.3(1)(c), the Council’s rules did not provide guidance regarding maintenance of real dollars for monetary path payments. The Council adopted those rules in February 1999. By changing the index, the Council is complying with its later-adopted rules.

Condition V.A.4(1)(c) is a new condition that the Office proposed in its proposed order for Amendment #5 on April 26, 2000. It contained the same index as the original Condition V.A.3(1)(c). The condition applies to a base load gas plant that uses duct burning or other power enhancement or augmentation options that increase its capacity and heat rate above those that the plant would achieve under base load operation. OAR 345-024-0710(6) further states:

…if the certificate holder must make a payment as described in OAR 345-024-0600(4), the certificate holder shall make a payment that has the same present value per ton of carbon dioxide as the monetary path offset rate of the year in which the Council issued the final order applying the carbon dioxide standard. In the site certificate, the Council shall specify the methodology for calculating present value.

For the reasons cited above, the Council finds that the appropriate index for Condition V.A.4(1)(c) should be based on the US Gross Domestic Product Implicit Price Deflator.
Section E.3 of this order addresses the changes to Conditions V.A.3(1)(c) and V.A.4(1)(c), based on the discussion above.

Although NEA and RNP did not address the financial assurance standard, the issues they raised also caused the Council to reconsider the index the Office proposed in its proposed order in new Condition IV.15(b) relating to the financial assurance standard. The site certificate had previously relied solely on a general statement of warranty for financial assurance and did not specify an index. For the same reasons stated above, the Council finds that the broader US Gross Domestic Product Implicit Price Deflator will more likely track the real costs of retiring the plant over the coming decades than a standard based on a narrow slice of the economy that is dominated by elements such as equipment and software. Therefore, the Council will use the US Gross Domestic Product Implicit Price Deflator as the index for Condition IV.15(b).

Section E.2 of this order addresses the changes to the conditions for meeting the financial assurance standard, based on the discussion above.

PGE, CS2 and Avista Power in a letter dated May 22, 2000, stated concern about the Office’s proposed Mandatory Condition 19 regarding restoring radio and television reception that might be affected by the CSCP’s electrical transmission line. The letter points out that the electrical transmission line to which this standard would apply has been built and is in operation. The letter also points out that the site-specific conditions in OAR 345-027-0023 are not mandatory conditions, but are discretionary conditions that the Council may or may not include in a site certificate.

The Council believes that in this case it is not necessary to impose this condition on phase two. As PGE, CS2 and Avista Power point out, the electrical transmission line was built when PGE built phase one and has been in service since early 1996. The Council is aware of no complaints about interference with either radio or television reception from the line. The line is one and one-half miles in length. It is located entirely on lands owned by the Port of Morrow or the City of Boardman. Based on PGE’s 1994 application, this land is zoned either PI (Port Industrial) or MG (General Industrial). This issue is discussed in Section E.4.

B.3. Council Review Steps

B.3.1. Council Notice

The Office mailed PGE’s request for amendment #5 to the Council on April 4, 2000. The Office gave notice to the public on or about April 4, 2000, that the Council would have its first reading on the extension request at a telephone conference meeting on April 14, 2000. At the April 14 meeting, the Office presented information about the request to the Council and responded to Council questions. Representatives of Enron, CS2, PGE and Avista participated in the conference call.

The Office mailed its proposed order to the Council on April 26, 2000.

B.3.2. Council Hearing and Action

The Office mailed a recommended final order to the Council on June 7, 2000. The Office gave notice to the public on June 6, 2000, that the Council would make a decision on the transfer request at a telephone conference meeting on June 15, 2000.
The Council considered the recommended final order at a special telephone conference meeting on June 15, 2000. Representatives of Enron, PGE, CS2 and Avista Power participated in the conference call. At the meeting, the Office presented information about the recommended final order. Following the presentation and comments by PGE, CS2 and Avista, the Council approved the final order for amendment #5 and authorized the Office to prepare the order for the Chair’s signature.

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

C.1. Summary of Changes to the Site Certificate

PGE’s amendment request includes three components. (1) PGE requests an extension to the construction completion date for phase two of the CSPC from September 16, 2001, to September 16, 2003. (2) PGE requests that the Council clarify that “complete construction” and “construction completion” as used in the Amended Site Certificate mean the commercial operation date of phase two. (3) PGE requests an amendment to apply the recently adopted carbon dioxide emissions standard for base load gas plants in OAR 345-024-0550 to phase two and to apply the new rules for carbon dioxide emissions from power augmentation technologies for so-called “hybrid power plants” in OAR 345-024-0550 to phase two.

C.2. Amendment to Extend Construction Beginning and Completion Deadlines

OAR 345-027-0030 sets the criteria and process for the Council to extend a construction completion deadline.

(1) The certificate holder may request an amendment to extend the deadlines for beginning or completing construction of the facility that the Council has specified in a site certificate or an amended site certificate. The certificate holder shall submit a request that conforms to the requirements of 345-027-0060 no later than six months before the date of the applicable deadline, or, in the case of circumstances beyond the control of the certificate holder and described in the request, no later than the applicable deadline.

(2) A request within the time allowed in section (1) to extend the deadlines for beginning or completing construction suspends those deadlines until the Council acts on the request.

(3) The Council shall review the request for amendment as described in OAR 345-027-0070.

(4) If the Council grants an amendment under this rule, the Council shall specify new deadlines for beginning or completing construction that are not more than two years from the deadlines in effect before the Council grants the amendment.

(5) For energy facilities subject to OAR 345-024-0550, OAR 345-024-0590, or OAR 345-024-0620, the Council shall not grant an amendment extending the deadline for beginning or completing construction unless the certificate holder demonstrates compliance with the carbon dioxide standard in effect at the time of the Council’s order on the amendment.
Discussion. PGE requested the extension of the construction completion deadline in advance of
the minimum required notice of six months. PGE submitted proposed amendments to change the
conditions specific to the construction completion date and to clarify the meaning of completion
of construction. PGE also acknowledged that the new carbon dioxide emissions standard in
OAR 345-024-0550 will apply to phase two if the Council grants an extension. However,
because of the complexity of the carbon dioxide emissions rules, PGE did not propose conditions
to implement the current rules. The Office proposed specific condition language in Section E.3.
of its proposed order to add to the site certificate to ensure that phase two complies with current
carbon dioxide emissions requirements.

PGE’s request to extend the construction completion deadline for phase two of the CSCP raises a
special concern. Condition V.A.2(5) of the Amended Site Certificate specifically prohibits any
further extension of the construction completion deadline beyond September 16, 2001. This
condition is, in part, a vestige from the original Council decision that was made in 1994 when
state statutes and Council rules required that proposed power plants meet a “need for power”
standard. It is also a reflection of the Council’s concern about “site banking” in which the
Council is asked to approve a facility well in advance of when the owner intends to build the
facility.

In 1994, when the Council approved the CSCP, state statutes and Council rules required that the
Council determine that a power plant was needed before the Council could approve the plant.
The original construction completion deadline stated in section V.A.2(1) of the original site
certificate is five years from the date of execution of the site certificate, or September 16, 1999.
The Council extended the construction completion date to September 16, 2001, in Amendment
No. 4 to the site certificate and incorporated it in the First Amended Site Certificate.

Although the warranties and conditions in the original and First Amended Site Certificates are
unequivocal with respect to the construction completion deadline, specifically V.A.2(5), the
basis on which these warranties and conditions were founded has changed. PGE requested in its
Application for a Site Certificate to have until December 31, 2005 to complete construction of
phase two (Final Order, page 28, line 38). However, PGE had also requested, and received, an
exemption from the need for facility standard, based on a short-term regional need for power
(Final Order, pages 26 and 28). The Council noted the inconsistency between granting an
exemption to meet a short-term need and allowing a ten-year construction deadline.
Furthermore, in the original Final Order, the Council stated that, as a general matter, it did not
believe that it was appropriate to site a facility ten years before it was to be placed on line. The
Council noted that the need for power, or the region’s ability to accommodate the output of a new
plant, might significantly change in ten years (Final Order, pages 28 and 29).

The 1997 Oregon Legislature passed, and the Governor signed, House Bill 3283, which removed
the need for facility standard for generating plants and added a carbon dioxide standard. The
statute specifically provided that a facility that had to meet the need standard prior to beginning
construction would instead be required to meet the carbon dioxide standard. The Council
applied this statute to phase two of CSCP in Amendment No. 3. With Amendment 3, the need for
facility standard no longer applied to phase two. That action also removed the rationale for
requiring plants to built within a short-term to meet identified needs. (However, as discussed
below there are additional considerations in determining the appropriate period for construction
beginning and completion deadlines.)

Council amendments to OAR 345-027-0030, effective April 14, 1999, revised paragraph (4) of
that rule to allow the Council to extend the commencement or completion of construction
deadlines in two-year increments, but without a maximum time limit. Without the need standard
for generating facilities and without a prohibition in rule of allowing multiple extensions of the
construction completion deadline, there is no longer a rationale for absolutely prohibiting CSCP
to extend its construction completion deadline beyond September 16, 2001.

When it issued the original final order and site certificate for CSCP, the Council was also
concerned that issuing open-ended, or long-term, site certificates would encourage site banking.
It wanted to avoid a situation where site certificate holders could forestall the construction of
authorized projects indefinitely until market conditions favored their development, at which time
the banked projects could be constructed and operated under outdated and potentially less
stringent standards than those in effect at the time of the actual development.

While site banking remains a valid concern, in 1999 the Council revised its rules to allow greater
flexibility in the issuance of construction completion date extensions while still enabling it to
maintain control over attempts at site banking. OAR 345-027-0070(9)(b) makes it clear that a
facility must meet current Council standards if the Council extends the construction beginning or
completion deadline. It further provides that the Council must review the findings upon which it
based its earlier decisions to ensure that they reflect current circumstances.

PGE has notified the Council that engineering and procurement activities for phase two began in
April, 2000 and that full-scale development of phase two will go forward as soon as the sale of
phase two is finalized and the Council approves a partial transfer of the site certificate to the new
owner. PGE and Enron state that they anticipate that phase two will be built and ready for
commercial operation in June 2002. Therefore, further site banking is unlikely to be an issue for
phase two. In fact, extending the construction completion deadline will enable the sale to go
forward and construction to begin immediately. Because phase two is being built in conjunction
with an operating phase one and as part of facility that was originally designed and sited for two
units, it is appropriate to extend the construction deadline so that phase two can now be
constructed.

Thus, despite the unequivocal warranties and conditions in the site certificate concerning the
construction completion deadline, the subsequent relevant amendments to OAR 345-027-0030
and 0070(9) authorize the Council to grant additional extensions to the deadline, provided that
the applicant meets the conditions of those sections and all current Council standards. PGE’s
compliance with the requirements of OAR 345-027-0070(9)(b)(B) is explained below in
Sections E and F.

Conclusion. The Council may and should delete the sentence in Condition V.A.2(5) that sets an
absolute limit on the construction completion deadline.

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D. Amendment of the Site Certificate

D.1. Amendment Proposed by PGE

PGE, in its Supplemented Request, requests the following amendments to the site certificate. PGE’s proposed deletions are shown as strikeouts and proposed additions are underlined.

V.A.2. Construction commencement and completion dates

(1) Applicant shall begin construction of phase one of the proposed facility within one year after the site certificate is executed. This one-year time period shall be tolled during any appeal that is taken of the Energy Facility Siting Council (EFSC) Order. Notwithstanding the tolling of the one-year time period for commencement of construction, Applicant shall complete construction of phase one by September 16, 1998, and phase two shall be completed by September 16, 2001-2003. For purposes of this requirement, completion of construction shall mean that the facility is ready to commence commercial operation.

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(5) In no event will EFSC grant an extension of the construction completion deadline for phase two beyond September 16, 2001. The construction completion deadline for phase two, as specified in the applicant’s warranty, will not be tolled for reason of appeal of the EFSC’s Order.

Discussion. PGE requests the Council clarify the definition of “completion of construction” with respect to phase two. PGE notes that the term is defined as the date of commercial operation in other site certificates for gas-fired combustion turbines. PGE asks that the site certificate be read to conform with this definition.

The Council agrees that the term “complete construction” should be clarified, and that it should be used in the Coyote Springs site certificate consistently with the way it has been defined in site certificates for similar facilities. The Office recommended amending Condition V.A.2(1) as shown below, rather than as proposed by PGE, to make the term applicable wherever it occurs in the site certificate.

(1) Applicant shall begin construction of phase one of the proposed facility within one year after the site certificate is executed. This one-year time period shall be tolled during any appeal that is taken of the Energy Facility Siting Council (EFSC) Order. Notwithstanding the tolling of the one-year time period for commencement of construction, Applicant shall complete construction of phase one by September 16, 1998, and phase two shall be completed by September 16, 2001-2003. Completion of construction of phase two means the date of commercial operation of phase two. [Amendment #5]

The Council also agrees with PGE’s proposal that the first sentence in Condition V.A.2(5), that sets an absolute limit on the construction completion deadline, be removed from the site certificate. As discussed in Section C.2, Condition V.A.2(5) reflects a limitation from an earlier situation and relates to the purposes of the former need for facility standard for generating plants. There is now no limit in the rules for how many times the Council may extend a construction
completion deadline, provided it is not for longer than two years at a time and provided the site
certificate holder can meet the Council’s standards. Furthermore, while the provision for not
tolling the deadline remains relevant, the reference to warranties is not. The Office proposed the
following amendments to V.A.2(5):

(5) In no event will EFSC grant an extension of the construction completion
deadline for phase two beyond September 16, 2001. The construction
completion deadline for phase two, as specified in the applicant’s warranty, will
not be tolled for reason of appeal of the EFSC’s Order. [Amendment#5]

Conclusion. The Council amends Condition V.A.2(1) and Condition V.A.2(5) as the Office
proposes in this section.

D.2. Amendments Proposed by the Office of Energy
In order to fulfill the requirements of OAR 345-027-0030 and OAR 345-027-0070(9), the Office
proposed a number of additional conditions be added to the site certificate. These proposed
conditions address compliance with the Council’s carbon dioxide emissions standard and rules in
OAR 345-024-0550 through OAR 345-024-0720, and add mandatory and site specific conditions
that are required by Council rules in OAR 345-027-0020 and OAR 345-027-0023. These are
each discussed under the appropriate standard in Section E, “Compliance with Council Standards
and Requirements,” of this order.

E. Compliance with Council Standards and Requirements
Council standards and requirements that are applicable to PGE’s request include the general
standards for siting non-nuclear energy facilities in Division 22, standards for energy facilities
that emit carbon dioxide in Division 24, and mandatory and site specific conditions in site
certificates in Division 27.

The following discussion of applicable standards addresses the current (February 2000) version
of the rules in OAR Chapter 345, Divisions 22, 24, and 27.

E.1. General Standard of Review
OAR 345-027-0070 sets forth the Council’s process for reviewing requests for amendments,
including those requesting an extension of the deadline for completing construction. Subsection
(9) sets forth the Council’s general standard for review of a request by a site certificate holder for
an amendment:

In making a decision to grant or deny issuance of an amended site certificate,
the Council shall apply state statutes, administrative rules, and local government
ordinances in effect on the date the Council makes its decision and shall
consider the following:***

E.2. OAR Chapter 345, Division 22: General Siting Standards
The Council’s General Standard of Review, OAR 345-022-0000, has been amended since the
Council granted the CSCP site certificate in 1994 and since the Council approved amendment #4
in 1998. OAR 345-022-0000(1) states:
(1) ...to amend a site certificate, the Council shall determine that the
preponderance of the evidence on the record supports the following conclusions:

(a) The facility complies with the requirements of the Oregon Energy
Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to
469.619, and the standards adopted by the Council pursuant to ORS
469.501 or the overall public benefits of the facility outweigh the damage
to the resources protected by the standards the facility does not meet as
described in section (2);

(b) Except as provided in OAR 345-022-0030 for land use compliance and
except for those statutes and rules for which the decision on compliance
has been delegated by the federal government to a state agency other than
the Council, the facility complies with all other Oregon statutes and
administrative rules identified in the project order, as amended, as
applicable to the issuance of a site certificate for the proposed facility. If
the Council finds that applicable Oregon statutes and rules, other than
those involving federally delegated programs, would impose conflicting
requirements, the Council shall resolve the conflict consistent with the
public interest. In resolving the conflict, the council cannot waive any
applicable state statute.

Section E discusses compliance with ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and
the standards adopted by the Council pursuant to ORS 469.501. Section F discusses compliance
with other Oregon statutes and administrative rules that are applicable to the CSCP site
certificate.

E.2.1 Applicant Qualification and Capability, OAR 345-022-0010(1) and (2)

To meet subsection (1) of the standard, the Council must find that:

(1) ...the applicant has the organizational, managerial and technical expertise to
construct and operate the proposed facility. To conclude that the applicant has the
organizational, managerial and technical expertise to construct and operate the
proposed facility, the Council must find that the applicant has a reasonable
probability of successful construction and operation of the proposed facility
considering the experience of the applicant, the availability of technical expertise
to the applicant, and the past performance of the applicant in constructing and
operating other facilities, including, but not limited to, the number and severity of
regulatory citations, in constructing or operating a facility, type of equipment, or
process similar to the proposed facility.

Subsection (2) of the standard states:

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

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

Subsection (2) does not impose a requirement; rather, it provides a rebuttable presumption of organizational, managerial and technical expertise upon which an applicant may rely. PGE does not have an ISO 9000 or ISO 14000 certified program. Therefore, PGE did not request that the Council rely on this rebuttable presumption.

Conclusion. The Council finds that PGE has satisfied the requirements of OAR 345-022-0010(1). The Council finds that PGE did not request a rebuttable presumption of expertise based on OAR 345-022-0010(2).

E.2.2. Third-Party Services and Permits, OAR 345-022-0010(3) and (4)

Subsections (3) and (4) of the standard for organizational, managerial and technical expertise address third party services and permits. These paragraphs of the standard require that:

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

(4) If the applicant relies on a permit or approval issue to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder may not commence construction or operation as appropriate until the third-party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.

Discussion. Section V.B.2 of the site certificate identifies three third-party permits and services on which the applicant is relying: 1) water supply for the Project from the Port of Morrow; 2) use of the Port of Morrow’s industrial wastewater disposal system to dispose of the Project’s process wastewater; and, 3) use of the City of Boardman’s sewage treatment system to dispose of the
Project’s sanitary wastewater. The Council did not identify any additional third party permit that would be required if the Council grants a two-year extension.

In Section VI.C.1.b. of the Final Order granting a site certificate to PGE, dated September 14, 1994, the Council concluded that the Port of Morrow and the City of Boardman had obtained the necessary state permits to provide water supply and sanitary wastewater disposal for both phases of the CSCP and that PGE had agreements with the Port and the City for the provision of these services to PGE.

However, in regard to the disposal of the Project’s process wastewater, the Council concluded that PGE had an agreement with the Port of Morrow, but the Council could not conclude that the Port had a reasonable likelihood of obtaining the necessary permit to accept and dispose of the Project’s process wastewater. The Council therefore, required PGE to demonstrate that the Port had obtained the necessary approval from the Oregon Department of Environmental Quality (DEQ) within six months of the date of the site certificate or commit to construct and operate an on-site, zero-discharge water treatment system. The Port of Morrow obtained the required DEQ approval within the six-month period and PGE did not install a zero-discharge system.

The Port of Morrow in a letter dated April 14, 2000, indicates that it has adequate water and discharge capacity for both phases, that this will not change if the Council grants a two year extension, and that the Port supports the extension. Likewise, the City of Boardman, in a letter dated April 14, 2000, indicates that it has the ability and willingness to serve the water supply and domestic wastewater disposal needs of the CSCP, including phase two, and that the City supports the construction and operation of phase two.

Conclusion. The Council finds that PGE meets the requirements of OAR 345-022-0010(3) and (4) for third-party services and permits.

E.2.3. Financial Assurance Standard, OAR 345-022-0050
The financial assurance standard, OAR 345-022-0050 states:

To issue a site certificate, the Council must find that the applicant has a reasonable likelihood of obtaining a bond or comparable security, satisfactory to the Council, in an amount adequate to restore the site to a useful, non-hazardous condition if the certificate holder either begins but does not complete construction of the facility or permanently closes the facility before establishing the financial mechanism or instrument described in OAR 345-027-0020(9).

Further, Council rules, OAR 345-027-0020 (February 2000), require the following mandatory conditions:

The Council shall impose the following conditions in every site certificate. The Council may impose additional conditions.
(8) Before beginning construction of the facility, the certificate holder shall submit to the State of Oregon, through the Council, a bond or comparable security, satisfactory to the Council, in an amount specified in the site certificate. The Council shall specify an amount adequate to restore the site to a useful, non-hazardous condition if the certificate holder either begins but does not complete construction of the facility or permanently closes the facility before establishing the financial mechanism or instrument described in section (9). The certificate holder shall maintain the bond or comparable security in effect until the certificate holder has established that financial mechanism or instrument.

(9) Before beginning operation of the facility, the certificate holder shall establish a financial mechanism or instrument, satisfactory to the Council, assuring the availability of adequate funds throughout the life of the facility to retire the facility and restore the site to a useful, non-hazardous condition as described in OAR 345-022-0130. The certificate holder shall retire the facility according to an approved final retirement plan, as described in OAR 345-027-0110.

The Council must apply these rules to phase two for the extension of the construction deadline, pursuant to OAR 345-027-0070(9).

Discussion. The site certificate does not meet the current financial assurance standard or the mandatory conditions that implement the standard. When the Council granted the site certificate in 1994, the financial assurance standard, OAR 345-22-050, required:

(1) The applicant, together with all co-owners, collectively shall possess or have reasonable assurance of obtaining, the funds necessary to cover the estimated construction, operating and retirement costs for the design lifetime of the facility including related fuel-cycle costs; and

(2) An applicant and co-owners of the facility collectively will be capable of providing funds as needed to construct, operate, and retire the facility without violating their respective bond indenture provisions, articles of incorporation, common stock covenants, or similar agreements.

When the Council originally granted the site certificate in 1994, the Council's rules contained no mandatory conditions relating to financial assurance. Rather, the statutes at that time specifically required applicant warranties for financial ability to construct and operate an energy facility (ORS 469.401(3), 1993). The site certificate, as originally granted, incorporated the financial assurance standard in its requirements under Section III “Warranties,” beginning on page 4 of the original site certificate (page 3 of the amended site certificate):
III. WARRANTIES
ORS 469.401(3) requires that:

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

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

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

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In 1995, the Oregon Legislative Assembly passed SB 951, which removed warranties from ORS 469.401(3). Site certificates the Council has granted since that time no longer rely on warranties to demonstrate the site holder's financial ability to construct, operate or retire a facility. Instead they rely on conditions in the site certificate.

OAR 345-022-0050 requires that the Council determine that the applicant has a reasonable likelihood of obtaining a bond or comparable security before the Council grants a site certificate. OAR 345-027-0020(8) requires that the certificate holder submit the bond or comparable security to the Council prior to beginning construction. OAR 345-027-0020(9) requires that the certificate holder establish and fully fund a financial mechanism or instrument prior to beginning operation.

The warranty in the current site certificate does not give the Council direct access to the funds from a third party. The Council must go to the site certificate holder. However, one reason the Council would have to rely on the warranty would be the inability or reluctance of the site certificate holder to restore the site adequately.

Unlike the warranty now in the site certificate, the Council could call upon a bond, or comparable security, such as a letter of credit maintained for the specific purpose of site restoration, regardless of the site certificate holder's financial condition.

Moreover, without the ability of the Council to assure compliance with the warranty, the site certificate fails to provide assurance that the site will be restored without expense to the State of Oregon. Therefore, a warranty does not meet the current requirement of OAR 345-027-0020(9) that the site certificate holder "establish a financial mechanism or instrument, satisfactory to the Council, assuring the availability of adequate funds throughout the life of the facility to retire the facility and restore the site to a useful, non-hazardous condition..."
The inability, or greater difficulty, of the Council to assure compliance with the requirements for a site certificate holder to perform on the warranty demonstrates that it is not comparable to a bond or letter of credit. Therefore, the Council must require a bond or comparable security for phase two in order to find compliance with OAR 345-022-0050 and OAR 345-027-0020(8) and (9).

The Final Order in the Matter of the Application for Site Certificate of Portland General Electric Company for the Coyote Springs Cogeneration Project, executed September 16, 1994, identifies the cost of decommissioning the plant as not expected to exceed $5,000,000 (in 1993 dollars). Apportioning half of that amount to phase two makes its share $2,500,000 (in 1993 dollars).

PGE in supplemental information provided to the Office on April 19, 2000, states that as of December 31, 1999, the book value of PGE’s common stock equity was approximately $1 billion. Due to regulatory requirements, PGE must maintain a 48% equity ratio. The percentage breakdown of PGE’s total capitalization was debt, 48%; preferred stock, 1.5%; and common equity, 50.5%. In 1999, PGE had committed lines of credit totaling $300 million. Although $200 million of this expires in July 2000, and the remaining $100 million expires in August 2000, PGE is currently soliciting bids from several banks to renew these revolving credit facilities and expects to have a $250 million revolving line of credit in place before they expire. PGE states that it is likely that $150 million of that credit will be for a three-year term, while the remainder will be on a 364-day term. However, PGE states that it expects to have sold the development rights to phase two prior to the expiration of the existing lines of credit. As part of that transfer, PGE’s financial assurance will have been replaced by that of the prospective purchaser of CS2.

PGE’s senior unsecured debt is rated “AA-” by Duff & Phelp’s, “A2” by Moody’s, and “A” by Standard & Poor’s. All three of these services have placed PGE’s rating on watch due to potential effects of PGE’s impending sale to Sierra Pacific Resources; however, PGE states that its credit rating has historically remained strong, and as a regulated utility, PGE expects its rating to remain strong despite the sale to Sierra Pacific. The following is a summary of PGE’s historical bond rating:

Duff & Phelp’s: August 1999: AA-

Moody’s: June 1996 – current: A2
    Sep. 1992 – May 1995: BAA1

Standard & Poor’s: 3/18/96 – current: A
    10/22/91 – 3/18/96: A-

PGE provided a copy of its 1999 Form 10-K as Exhibit D in its supplemental information. Based on the information contained therein and summarized above, the Council finds that PGE has a reasonable likelihood of obtaining a bond or comparable security adequate to restore the site to a useful, non-hazardous condition.
As discussed above, the site certificate does not contain conditions that meet the requirements of OAR 345-022-0050 and OAR 345-027-0020(8) and (9). The Office, in its proposed order, recommended two conditions to address this issue. The first of these conditions used an index to maintain the buying power of the funds set aside for facility retirement and site restoration. However, the Council finds that the index proposed by the Office is not the appropriate index to maintain real value of dollars relative to the changes in the economy that may affect the future costs of retiring the facility. The Northwest Environmental Advocates and Renewables Northwest Project, in their joint comments on the proposed order, pointed out that the index the Office proposed using to maintain the buying power of funds has been falling, while inflation in the economy as a whole has been increasing. In particular, they pointed out that computer equipment and software dominate the proposed index. Such an index is not relevant to retirement costs.

The purpose of OAR 345-027-0020(8) and (9) and the conditions the Office proposed is to ensure that sufficient money will be available at the end of the facility’s useful life to properly retire the facility and restore the site. The anticipated useful life of the CSCP is at least 30 years. Using an inappropriate index that has and may continue to decrease over some or all of that period would result in insufficient funds at the time of retirement. This is clearly not the intention of the financial assurance standard, OAR 345-022-0050, the mandatory conditions relating to retirement in OAR Chapter 345, Division 27, or the conditions the Office recommended in its proposed order. For the reasons stated by the Council in Section B.2.6, the Council will use the “US Gross Domestic Product Implicit Price Deflator” rather than the “US Gross Domestic Product Deflator for Total Non-Residential Fixed Investment” in Mandatory Condition (15) below.

IV. MANDATORY CONDITIONS

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(15) Before beginning construction of phase two of the facility, the site certificate holder shall submit to the State of Oregon through the Council a bond, letter of credit or fully-funded escrow account naming the State of Oregon, acting by and through the Council, as beneficiary or payee in the amount of $2,500,000 (in 1993 dollars). The calculation of 1993 dollars shall be made using the index set forth below in sub-section (b).

(a) The terms of the bond, letter of credit or fully-funded escrow account and identity of the issuer shall be subject to approval by the Council, which approval shall not be unreasonably withheld. The bond, letter of credit or fully-funded escrow account shall not be subject to revocation or reduction prior to the time the certificate holder has established the financial mechanism or instrument described in Mandatory Condition IV.(16) and has fully funded the obligation.

(b) The calculation of 1993 dollars shall be made using the US Gross Domestic Product Implicit Price Deflator for Total Non-Residential Fixed Investment, as published by the US Department of Commerce, Bureau of Economic Analysis, or any successor agency ("the index"). The amount of
the bond, letter of credit or fully-funded escrow account shall increase annually by the percentage increase in the index and shall be pro-rated within the year to the date of retirement. If at any time the index is no longer published, the Council shall select a comparable calculation of 1993 dollars. [Amendment 5]

(16) Before beginning operation of phase two of the facility, the certificate holder shall establish a bond, letter of credit or fully-funded escrow account, satisfactory to the Council, assuring the availability of adequate funds throughout the life of phase two of the facility to retire phase two of the facility and restore the site to a useful, non-hazardous condition as described in OAR 345-022-0130. The certificate holder shall retire the facility according to an approved final retirement plan, as described in OAR 345-027-0110. [Amendment 5]

PGE, in its supplemented request, states that it understands and acknowledges that the granting of a two-year extension of the construction completion deadline for CSCP phase two will result in the application of these recently adopted financial assurance requirements to phase two. PGE agrees that it will provide the financial assurance instruments required by OAR 345-027-0020(8) and (9) in the amount specified in the amended site certificate and in a form acceptable to the Council.

Conclusion. The Council finds that PGE meets the requirements of OAR 345-022-0050 regarding financial assurance. The Council finds that proposed Condition IV(15), as modified, and Condition IV(16) are necessary for the site certificate holder to comply with the requirements of OAR 345-022-0050 and OAR 345-027-0020(8) and (9), and the Council, therefore, adopts the proposed conditions.

E.2.4. Structural Standard, OAR 345-022-0020

The Council has amended the structural standard since it granted the site certificate for the CSCP and since it approved amendment #4. The current standard requires the Council to find:

(1) The applicant, through appropriate site-specific study, has adequately characterized the site as to seismic zone and expected ground motion and ground failure, taking into account amplification, during the maximum credible and maximum probable seismic events; and

(2) The applicant can design, engineer, and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence;

(3) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and
(4) The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in section (3).

Discussion. Several studies were undertaken during the design CSCP phase one to determine the seismicity and foundation/structural issues present at the site. In its supplemental information, PGE states that it has reviewed these reports and determined that the information and conclusions they contain remain valid for the region and the site. No new faults have been identified since the reports were authored, and no other geotechnical or structural issues have been identified at the site. Each of the four components of OAR 345-022-0020 is addressed more specifically below.

OAR 345-022-0020(1): A site-specific Seismic Hazards Evaluation was performed for the Coyote Springs site in June 1993 and updated in January 1994 by Ebasco Infrastructure. Ebasco researched capable faults in the region, as well as a random crustal event, (as dictated by good seismological practice) and determined the controlling maximum credible earthquake (MCE) for the region. This evaluation estimated the mean peak horizontal ground acceleration to be 0.13 to 0.16g at the Coyote Springs site. A mean peak ground acceleration of 0.14g was selected to represent the MCE. The 84th percentile (one standard deviation) peak ground acceleration value for the MCE is 0.26g. The design recommendation for CSCP phase one was to adhere to the 1991 Uniform Building Code (UBC) (as amended by the State of Oregon) seismic requirements with a Z factor of 0.2 (Zone 2B) and a soil factor of 1.3 for an effective ground acceleration of 0.26. The most current version of the UBC will be used for the seismic design and construction of CSCP phase two. The recommended Z value has not changed since phase one was designed and no other capable faults have been identified since the 1994 study. The Oregon Department of Geology and Mineral Industries (DOGAMI) in 1994 reviewed the Ebasco Seismic Hazards Evaluation. DOGAMI issued a letter on September 12, 1994, to the Oregon Department of Energy stating that PGE and its consultants had properly evaluated the seismic risk of the Coyote Springs site.

OAR 345-022-0020(2): The Coyote Springs site is a fairly flat site with no features that are considered to be susceptible to landslides. The site was evaluated for liquefaction issues in 1994 and this evaluation was documented in the Ebasco Infrastructure report entitled “Site Densification Report for Coyote Springs Power Project, Boardman, OR,” dated June 1994. Site mitigation (compaction) for liquefaction was performed over the entire site prior to construction of phase one. The area on which phase two will be constructed was included in the mitigation area. No additional liquefaction issues have been identified. The geology of the site is not susceptible to lateral spreading during a seismic event and for this reason no formal evaluations have been conducted. Tsunami inundation is not considered to be feasible as the site is located over 200 miles inland and over 270 feet above sea level; therefore, no formal evaluations have been conducted. The Ebasco Seismic Hazards Evaluation identified no faults in the immediate vicinity of the Coyote Springs site, and fault displacement is not considered to be an issue. Finally, the site is located on deposits of dense gravels, which are not susceptible to subsidence during a seismic event. All potentially liquefiable material was compacted prior to the construction of phase one and critical plant components are on pile foundations penetrating the dense gravels. For these reasons, subsidence is not considered to be an issue at the Coyote Springs site.
OAR 345-022-0020(3) and (4): PGE has had experts in their fields perform foundation investigations, seismic hazards evaluations, and liquefaction studies for the Coyote Springs site to identify geological and soil hazards at the site. Aside from the liquefaction issue, for which mitigation was performed prior to construction of phase one, no other site-specific hazards have been identified, particularly in the absence of a seismic event. PGE states that phase two can be designed, engineered, and constructed to avoid such safety risks to personnel. This conclusion is buttressed by the successful development and record of CSCP phase one.

The Council’s rules at OAR 345-027-0020(12) contain a mandatory condition that states:

(12) The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule “seismic hazard” includes ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence.

The Council adopted this rule after it issued the original CSCP site certificate in 1994, and the Amended Site Certificate does not contain this condition. As required by OAR 345-027-0070(9), the Office recommended that the Council add this mandatory condition to the site certificate as Mandatory Condition (17) as part of the extension.

(17) The certificate holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. As used in this rule “seismic hazard” includes ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence. [Amendment 5]

Conclusion. The Council finds that the CSCP meets the structural standard, OAR 345-022-0020. The Council further finds that proposed Mandatory Condition (17) is necessary for the certificate holder to comply with OAR 345-027-0020(12) and OAR 345-027-0070(9), and the Council, therefore, adopts the proposed condition.

E.2.5. Land Use Standard, OAR 345-022-0030(2)(a)

Section (1) of the land use standard requires that the facility be in compliance with “the statewide planning goal adopted by the Land Conservation and Development Commission.” OAR 345-022-0030(1). The standard contains the following method of compliance, which PGE relied on in its site certificate application:

(2) The Council shall find that a proposed facility complies with section (1) if:
   (a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; ***
Discussion. PGE has obtained local land use approval as required by OAR 345-022-0030 during the original certification proceeding. Since that time the City of Boardman has annexed the site of the CSCP and approved a local ordinance making “power generating and utility facilities” an outright permitted use at the site. A two year extension of the construction completion deadline for phase two will not change the City’s approval. Moreover, the City in a letter dated April 14, 2000, to PGE, expressed its support for granting the extension of time to complete construction.

Conclusion. The Council finds that the CSCP meets the land use standard, OAR 345-022-0030.

E.2.6 Soil Protection Standard, OAR 345-022-0022

The soil protection standard requires the Council to find “that the design, construction and operation of the facility, taking into account mitigation, is not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.”

Discussion. The proposed extension would have no effect on the way PGE designs, constructs or operates the facility with respect to the soils standard. However, the Council amended and renumbered its soil protection standard in November 1994 and amended it again in January 2000. At the time the original order for the CSCP was issued, the standard required that the facility be “designed, constructed, operated, and retired so as to avoid, to the greatest extent possible, adverse impacts on soils such as compaction, erosion, mass wasting and slumping.” The standard did not include considerations of impacts from chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

Construction of CSCP phase two will take place on an established industrial site, which has been graveled and fenced as part of the initial construction of CSCP phase one. This should eliminate concerns about soil erosion. There are no soils to be impacted on the site itself and no expansion of the site is planned.

The salt drift from the plant’s cooling towers will fall primarily onto the graveled site or onto a road or railroad adjacent to the site. Nearby Messner Pond has been monitored for 6 years for possible impacts from cooling tower drift, and no effect on water quality or the riparian habitat on the western shore, adjacent to CSCP phase one, have been detected. Coyote Springs is surrounded by industrial-zoned land. PGE, in its supplemental information, provided a zoning map of the site area. The nearest land zoned for exclusive farm use (EFU) is located on the opposite side of Interstate 84, which is approximately 2,000 feet from the south property line of the CSCP. At this distance the amount of salt drift from the plant will be negligible and would not result in a significant adverse impact to soils.

Process wastewater from the CSCP is piped to the Port of Morrow for treatment and subsequent disposal through surface irrigation. The Port of Morrow holds the required DEQ permits authorizing wastewater disposal by surface irrigation, also known as “land application.” These permits were obtained following studies that confirmed that the application of the effluent for irrigation does not represent a risk to the ground water or the soil. PGE states that its January 5, 1994, amendment to its original Application for Site Certificate describes its contractual relationship with the Port of Morrow, the nature of the wastewater, and the Port of Morrow DEQ
permit requirements. PGE provided a copy of that amendment in its supplemental information. There have been no material changes to that information since that submission. The Office confirmed that DEQ considers adverse impacts to agricultural soils as part of its decision to permit the disposal of wastewater by land application and conditions such permits to avoid significant adverse impacts (tel. comm., Hammond, DEQ, and Meehan, OE, April 14, 2000).

Storm water falling on the site is directed to an on-site evaporation pond, which is lined to prevent the leaching of any contaminants into the gravel and any surrounding soil. The existing 680,000 gallon above ground fuel oil (No. 2 low-sulfur distillate) storage tank is designed with diked, oil-impermeable secondary containment with foam fire-suppression. The entire diked containment area is sufficient to contain a catastrophic rupture of a tank causing a release of 100% of tank contents. There are no other potential sources of significant chemical spills that might cause off-site impacts to soils.

Conclusion. The Council finds that the CSCP meets the soil protection standard, OAR 345-022-0022.

E.2.7. Protected Areas Standard, OAR 345-022-0040
The protected areas standard prohibits the siting of a facility in any of the listed protected areas. OAR 345-022-0040(1). The standard permits the siting of a facility outside the listed protected areas so long as the Council finds, “taking into account mitigation, the design, construction and operation of the proposed facility...is not likely to result in significant adverse impact” to any of the listed protected areas.

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

Conclusion. The Council finds that the CSCP meets the protected areas standard, OAR 345-022-0040.

E.2.8. Fish and Wildlife Habitat Standard, OAR 345-022-0060
The fish and wildlife habitat standard requires that the Council find that "the design, construction, operation and retirement of the facility, taking into account mitigation, is consistent with the fish and wildlife mitigation goals and standards of OAR 635-415-030." OAR 635-415-030 describes four categories of habitat in order of their value. The rule then establishes mitigation goals and corresponding implementation standards for each habitat category.

Discussion. In the Final Order approving the site certificate, the Council found that the site of the CSCP is habitat category 4 and that loss of the habitat would not constitute a significant adverse impact on wildlife. The Council found that construction and operation of the facility (both phases one and two) could have some adverse effect on wildlife in the surrounding area, and the site certificate includes conditions to mitigate those possible impacts. The proposed
extension of time for completing construction has no effect on the factual basis for the Council’s
decision, in the Final Order, that the fish and wildlife habitat standard was met.

Conclusion. The Council finds that the CSCP meets the fish and wildlife habitat standard, OAR
345-022-0060.

E.2.9. Threatened and Endangered Species, OAR 345-022-0070
The threatened and endangered species standard requires that:

(1) For plant species that the Oregon Department of Agriculture has listed as
threatened or endangered under ORS 564.105(2), the design, construction,
operation and retirement of the proposed facility, taking into account mitigation:
(a) Is consistent with the protection and conservation program, if any, that
the Oregon Department of Agriculture has adopted under ORS
564.105(3); or
(b) If the Oregon Department of Agriculture has not adopted a protection
and conservation program, is not likely to cause a significant reduction in
the likelihood of survival or recovery of the species; and

(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed
as threatened or endangered under ORS 496.172(2), the design, construction,
operation and retirement of the proposed facility, taking into account mitigation,
is not likely to cause a significant reduction in the likelihood of survival or
recovery of the species.

Discussion. The Council amended this standard in March 1999. However, the current rule is
not substantively different from the rule in effect in 1994. In the Final Order approving the site
certificate, the Council concluded that the proposed facility satisfied the threatened and
endangered species standard for plants and animals. The proposed extension of time for
completing construction has no effect on the factual basis for the Council’s decision, in the Final
Order, that the standard was met.

Conclusion. The Council finds that the CSCP meets the threatened and endangered species
standard, OAR 345-022-0070.

E.2.10. Scenic and Aesthetic Standard, OAR 345-022-0080
The scenic and aesthetic standard requires that the Council find that “the design, construction,
operation and retirement of the proposed facility, taking into account mitigation, is not likely to
result in significant adverse impact to scenic and aesthetic values identified as significant or
important in applicable federal land management plans or in local land use plans in the analysis
area.”

Discussion. The Council amended this standard in March 1999. The amendment replaced “in
the vicinity” by “in the analysis area.” The Council considered the area within a 30-mile radius
of the site in its original order in 1994. This is a reasonable analysis area. Therefore, the
analysis done for the original certification review is sufficient to meet the language of the current rule.

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

**Conclusion.** The Council finds that the CSCP meets the scenic and aesthetic values standard, OAR 345-022-0080.

**E.2.11. Historic, Cultural and Archeological Resources Standard, 345-022-0090**

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

- (1) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;
- (2) For a facility on private land, archaeological objects, as defined in ORS 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and,
- (3) For a facility on public land, archaeological sites, as defined in ORS 358.905(1)(c).

**Discussion.** The Council amended this standard in November 1999. The amended rule requires the Council to apply the standard to resources that are listed on or would likely be listed on the National Register of Historic Places, whereas the previous standard applied to listed sites or sites determined eligible for listing by the State Historic Preservation Office. The amended rule also changes the required finding for issuance of a site certificate from “will not result in significant adverse impacts...” to “is not likely to result in significant adverse impacts.” The amended rule also adds subsections (2) and (3) regarding archaeological sites and archaeological objects.

Literature and site surveys for historic, cultural and archaeological resources were conducted as part of the original certification. Thus, the resources addressed in the current rules were considered during the original certification review. The surveys did not identify any significant historic, cultural or archaeological resources on the site. In the Final Order approving the site certificate, the Council concluded that the construction, operation and retirement of the facility would not result in a significant adverse impact to historic, cultural or archaeological resources. The site certificate includes conditions protecting any artifacts and historic, cultural or archaeological resources that are discovered during construction. The proposed extension of time for completing construction affects only land that was studied during the original certification review. Thus, the extension would not change the Council’s decision, in the Final Order, that the historic, cultural and archaeological standard was met.
Conclusion. The Council finds that CSCP meets the historic, cultural, and archeological resources standard, OAR 345-022-0090.

E.2.12. Recreation Standard, OAR 345-022-0100
The recreation standard requires that the Council find that "design, construction and operation of a facility, taking into account mitigation, is not likely to result in a significant adverse impact to important recreational opportunities in the analysis area. The Council shall consider the following factors in judging the importance of a recreational opportunity:
(1) Any special designation or management of the location;
(2) The degree of demand;
(3) Outstanding or unusual qualities;
(4) Availability or rareness;
(5) Irreplaceability or irretirievability of the opportunity."

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

Conclusion. The Council finds that the CSCP meets the recreation standard, OAR-345-022-0100.

E.2.13. Socio-Economic Impacts Standard, OAR 345-022-0110
The socio-economic impacts standard requires the Council to find “that the construction and operation of the facility, taking into account mitigation, is not likely to result in significant adverse impact to the ability of communities within the analysis area to provide the following governmental services: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.”

Discussion. The socio-economic impact standard in effect at the time the Council approved the CSCP did not include “traffic safety.” However, the Council, in its Final Order approving the site certificate, considered traffic safety (Final Order, section VI.E.7.h. on page 69). The Council, in its Final Order, concluded that, subject to mitigation conditions, construction and operation of the CSCP would not result in significant adverse impacts to the governmental services listed in the standard as currently written. The Council’s findings anticipated both phases of the project. PGE, in its supplemental information, states that it is likely that the construction work force required to build phase two will be smaller than that required to build phase one. The site has already been prepared and phase two construction will not be as extensive as phase one because it will use several buildings and certain facilities that were built as part of phase one. Furthermore, construction of phase two is scheduled to take place over a longer period than construction of phase one.
For these reasons, the proposed extension of time for completing construction does not affect the factual basis for the Council’s decision, in the Final Order, that the socio-economic impacts standard was met.

Conclusion. The Council finds that the CSCP meets the socio-economic impacts standard, OAR 345-022-0110.

The waste minimization standard requires the Council to find that to the extent reasonably practicable:

(1) The applicant’s solid waste and wastewater plans are likely to minimize generation of solid waste and wastewater in the construction, operation, and retirement of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;

(2) The applicant’s plans to manage the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility are likely to result in minimal adverse impact on surrounding and adjacent areas.

Discussion. In the Final Order approving the site certificate, the Council concluded that PGE’s commitment to implementing programs to reduce and recycle solid waste was adequate. This conclusion anticipated both phases of the project. The site certificate includes conditions to minimize and recycle solid wastes generated during construction and operation. The Council further concluded that PGE’s efforts at wastewater reduction and reuse through the Port of Morrow’s land application disposal system were adequate to satisfy the standard.

However, because of concern about water consumption and conservation, the original site certificate included condition V.D.5.b, which states:

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

This condition applies to the proposed extension of the construction completion deadline for phase two, because it has been more than two years since September 16, 1994, the date the site certificate was executed.

Conclusion. The Council finds that the CSCP meets the waste minimization standard, OAR 345-022-0120.

E.2.15. Retirement Standard, OAR 345-022-0130
The retirement standard requires the Council to find that "the site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following facility retirement."
Discussion. The Council amended the Retirement Standard in November 1995, to require that a site can be restored to a “non-hazardous” as well as a useful condition. In the Final Order approving the site certificate, the Council concluded that the site of the CSCP can be restored to a useful condition. The requested extension does not change the factual basis for this decision. However, the current standard requires that the site be restored to a “useful, non-hazardous” condition. The Amended Site Certificate contains conditions to reduce the likelihood of chemical spills that could result in hazardous contamination of the site. The requested extension does not change these conditions.

Condition (10) in Section IV, Mandatory Conditions, in the Amended Site Certificate states that the “Applicant shall prevent any condition from developing on the site that would preclude restoring the site to a useful condition.” The Council amended its rules regarding mandatory conditions, OAR 345-027-0020, in March 1999. The applicable mandatory condition rule is now OAR 345-027-0020(7) and reads:

The certificate holder shall prevent the development of any conditions on the site that would preclude restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder.

As required by OAR 345-027-0070(9), the Office recommended that Condition (10) in Section IV of the Amended Site Certificate be amended as follows to reflect the Council’s current rule at OAR 345-027-0020(7):

10. Applicant. The certificate holder shall prevent the development of any conditions from developing on the site that would preclude restoring restoration of the site to a useful, non-hazardous condition to the extent that prevention of such site conditions is within the control of the certificate holder. [Amendment 5]

In its amendment request, PGE notes that the original dollar estimate for retirement of the facility ($5,000,000 in 1993 dollars) anticipated the cost of completing both phases as approved in the site certificate. Because the estimated retirement cost is indexed to 1993 dollars, the proposed extension of time for completing construction of phase two does not effect the estimated cost.

Conclusion. The Council finds that the CSCP meets the retirement standard, OAR 345-022-0130. The Council further finds that proposed Mandatory Condition (10) is necessary for the certificate holder to comply with OAR 345-027-0020(7) and OAR 345-027-0070(9), and the Council, therefore, adopts the proposed condition.

E.3. OAR Chapter 345, Division 24: Carbon Dioxide Emissions

PGE’s request for amendment noted that phase two must comply with the current carbon dioxide emissions standard for base load gas plants and requested the application of the power augmentation option (“hybrid”) rule provisions of OAR 345-024-0550, et seq. In order to fulfill the requirements of OAR 345-027-0030 and OAR 345-027-0070, the Office proposed the following additional amendments to the site certificate.
E.3.1. Carbon Dioxide Standard for Phase Two Base Load Gas Plant

OAR 345-027-0030(5) requires that the site certificate holder requesting an extension of the deadline for beginning or completing construction demonstrate compliance with the carbon dioxide (CO$_2$) standard in effect at the time of the Council’s order on the amendment. Phase two is a base load gas plant; therefore, the site certificate holder must demonstrate compliance with OAR 345-024-0550 through OAR 345-024-0720.

The CO$_2$ standard for base load gas plants is 0.675 lbs. CO$_2$/kWh of net electric power output, measured on a new and clean basis (OAR 345-024-0550). Condition V.A.3 demonstrates compliance with the former standard of 0.7 lbs. CO$_2$/kWh. The Council must amend Condition V.A.3 to bring the site certificate into compliance with the current standard.

In its request, PGE has identified the likely capacity of the phase two base load plant as 260 megawatts. From the information about the operation of the base load plant with power augmentation, the Council infers that the heat rate for base load operation is likely to be about 6,900 Btu/kWh (HHV). Given those two assumptions, the Council demonstrates in Table 1 how phase two would comply with OAR 345-024-0550, et seq., using the monetary path. The numbers in Table 1 are representative of the likely plant. Condition V.A.3(4) requires the site certificate holder to use the contracted design parameters of phase two that it reports pursuant to Condition V.A.3(5) to determine actual monetary path payment requirements.

<table>
<thead>
<tr>
<th>Table 1. Coyote Springs, Phase Two, Representative Base Load Gas Plant</th>
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<tbody>
<tr>
<td><strong>Net Power Output (kW)</strong></td>
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<tr>
<td><strong>Capacity Factor</strong></td>
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<tr>
<td><strong>Annual Hours of Operation</strong></td>
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<td><strong>Deemed Life of Plant (years)</strong></td>
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<tr>
<td><strong>Total Plant Output (million kWh for 30 years)</strong></td>
</tr>
<tr>
<td><strong>Heat Rate (Btu/kWh) (HHV)</strong></td>
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<tr>
<td><strong>CO$_2$ Emissions Rate (lb. CO$_2$/Btu)</strong></td>
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<tr>
<td><strong>Total CO$_2$ Emissions (million lb.)</strong></td>
</tr>
<tr>
<td><strong>Gross CO$_2$ Emissions rate (lb. CO$_2$/kWh)</strong></td>
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<tr>
<td><strong>CO$_2$ Standard (lb. CO$_2$/kWh)</strong></td>
</tr>
<tr>
<td><strong>Excess CO$_2$ Emissions (lb. CO$_2$/kWh)</strong></td>
</tr>
<tr>
<td><strong>Excess Tons CO$_2$ (million tons over 30 years)</strong></td>
</tr>
<tr>
<td><strong>Offset Fund Rate ($/ton CO$_2$)</strong></td>
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<tr>
<td><strong>Offset Funds Required ($ million)</strong></td>
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<tr>
<td><strong>Contracting and Selection Funds ($ million)</strong></td>
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<tr>
<td><strong>Total Monetary Path Requirement ($ million)</strong></td>
</tr>
</tbody>
</table>
PGE did not propose specific changes to the conditions to achieve compliance with OAR 345-027-0030(5). Therefore, the Office recommended that the Council amend Condition V.A.3 as proposed below to meet the requirements of OAR345-027-0030(5). The recommended changes apply the 0.675 lbs. CO₂/kWh standard, pursuant to OAR 345-024-0550 and also streamline the condition. The Office also recommended that the Council replace the ORS citations with current OAR citations.

The current condition, in V.A.3(4), specifies the arithmetic calculations for determining the monetary path payment requirement. The Office believed that level of detail in the condition is not necessary. It proposed replacing the specifics of the calculations with a requirement that the site certificate holder submit its monetary path payment requirement calculations to the Office of Energy for the Office’s verification. Because the portions of V.A.3(4) that the Office recommended striking specify the offset emissions rate and the offset funds rate, the Office recommended moving those elements to V.A.3(4)(a) and V.A.3(1), respectively.

As discussed in Section B.2.6, the Northwest Environmental Advocates and Renewables Northwest Project, in their joint comments on the proposed order, pointed out that the index the Office proposed using to maintain the buying power of funds the certificate holder provides to meet the monetary path payment requirement has been falling, while inflation has been increasing. For the reasons stated by the Council in Section B.2.6, the Council changes the index from the “US Gross Domestic Product Deflator for Total Non-Residential Fixed Investment” to the “US Gross Domestic Product Implicit Price Deflator” as shown in condition V.A.3(1)(c) below.

In addition, the phrase “executed by the site certificate holder” in the first sentence of V.A.3(1) and V.A.4(1) is unnecessary and confusing since the site certificate holder would not execute a bond, letter of credit or escrow account. Therefore, the Office has recommended striking this phrase as shown below. The Council concurs.

V. CONDITIONS ISSUED PURSUANT TO EFSC STANDARDS

A. ***

3. Carbon Dioxide Emissions Standard for Phase Two: OARS 469.503(2)OAR 345-024-0550 through 0720. [Amendment 5]

(1) Prior to commencement of construction of phase two on an extended construction completion schedule pursuant to Condition V.A.2(4), the site certificate holder shall submit to the State of Oregon through the Council a bond, letter of credit or fully-funded escrow account ("escrow account") executed by the site certificate holder in the amount of the monetary path payment requirement (in 1998 dollars) as determined by the calculations set forth in Condition V.A.3(4) and based on the estimated heat rate and capacity certified pursuant to Condition V.A.3(5) below and as adjusted in accordance with the terms of this site certificate pursuant to Condition V.A.3(4)(d). For the purposes of this site certificate, the "monetary path payment requirement" means the offset funds determined pursuant to OARS 469.503(2)(c)OAR 345-024-0550 and -0560 and the selection and contracting funds determined pursuant to OARS 469.503(2)(d)(A)(ii)OAR 345-024-0710 that the site certificate
holder must disburse to the Oregon Climate Trust, as the qualified organization, pursuant to ORS 469.503(2)(a)(A)OAR 345-024-0710. The offset fund rate for the monetary path payment requirements shall be $0.57 per ton of carbon dioxide (in 1998 dollars). The calculation of 1998 dollars shall be made using the index set forth below in sub-section (c).

(a) In the event that the Council approves a new site certificate holder, the Council shall approve the bond, letter of credit or escrow account from the new site certificate holder(s) unless the Council finds that the proposed bond, letter of credit or escrow account does not provide comparable security to the bond, letter of credit or escrow account of the current site certificate holder. Such approval of a new bond, letter of credit or escrow account will not require a site certificate amendment. The bond, letter of credit or escrow account shall remain in effect until such time as the site certificate holder has disbursed the full amount of the monetary path payment requirement to the Oregon Climate Trust as provided in ORS 469.503(2)(a)(A)OAR 345-024-0710.

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

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

(d) If the site certificate holder establishes an escrow account for the monetary path payment requirement, the portion of any interest accruing in the escrow account up to the time of disbursement to the Oregon Climate Trust that is equivalent to the 1998 dollar index adjustment (described in sub-section (c)) shall be for the benefit of the Oregon Climate Trust and shall be disbursed to the
Oregon Climate Trust for use as specified in ORS 469.503(2)(d)(A) OAR 345-024-0710. Any remaining interest that exceeds the 1998 dollar adjustment at the time of disbursement of funds to the Oregon Climate Trust shall be disbursed to the site certificate holder on its request.

(2) The site certificate holder shall disburse to the Oregon Climate Trust offset funds and contracting and selection funds as requested by the Oregon Climate Trust up to the monetary path payment requirement as determined by the calculations set forth in Condition V.A.3(4) and based on the estimated heat rate and capacity certified pursuant to Condition V.A.3(5) below (in 1998 dollars) and as adjusted in accordance with the terms of this site certificate pursuant to Condition V.A.3(4)(d)(h). Disbursements shall be made in response to requests from the Oregon Climate Trust in accordance with the requirements of ORS 469.503(2)(d)(A) OAR 345-024-0710.

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

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

(a) The net carbon dioxide emissions rate for phase two as a base load gas plant shall not exceed 0.675 pounds of carbon dioxide per kilowatt hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. To calculate the offset funds payment requirement as provided in ORS 469.503(2)(c), the site certificate holder shall use the following methodology:

(A) The site certificate holder shall multiply the nominal power of phase two (kW) while operating on natural gas by 8,760 hours. It shall then multiply that product by 30 years to determine the total net
plant output (kWh) of phase two. It shall multiply the total net plant output of phase two by the heat rate (Btu/kWh) while operating on natural gas and by the carbon dioxide emission factor for natural gas (0.00017 lb. CO₂/Btu) to determine the total CO₂ emissions (lb.) from operating phase two. The site certificate holder shall calculate the CO₂ emissions rate (lb. CO₂/kWh) for phase two by dividing the total CO₂ emissions by the total net plant output for phase two.

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

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

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

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

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

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

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

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

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

(6) Within two months of completion of the first year of commercial operation of phase two on an extended construction completion schedule pursuant to Condition V.A.2(4), the site certificate holder shall provide to the Council pursuant to ORS 469.503(2)(c)(G) a test report (Year One Test) of the actual heat rate (Year One Heat Rate) and nominal generating capacity (Year One Capacity) for phase two, without degradation, assuming no steam is supplied for cogeneration, as determined by a 100-hour test at full power completed during the first 12 months of commercial operation, with the results adjusted for the average annual site condition for temperature, barometric pressure and relative humidity and use of alternative fuels, and using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel pursuant to OAR 345-001-0010(34).

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

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

Conclusion. The Council finds that amending Condition V.A.3, as stated above, meets the requirements of OAR 345-027-0030(5) and OAR 345-024-0550, et seq.

E.3.2. Carbon Dioxide Standard for Base Load Gas Plant with Power Augmentation

In its request for an amendment, PGE indicated that it would like to have the option of using duct burning in phase two. OAR 345-024-0550 allows a site certificate holder flexibility in meeting the CO₂ standard if the plant employs power augmentation technologies, such as duct burning. There are two options. First, the site certificate holder can report the full capacity and maximum heat rate while employing duct burning pursuant to Condition V.A.3(5), in which case the Council would determine compliance for a base load gas plant through Condition V.A.3.

Second, OAR 345-024-0550 allows the site certificate holder the option of treating the plant as if it were a hybrid plant, composed of a base load element and a non-base load, or power
augmentation, element. For the base load plant element, the Council would determine
compliance with the base load standard, using Condition V.A.3. For the non-base load element,
which uses duct burning, the Council would apply the non-base load standard, OAR 345-024-
0590, and determine compliance for that element pursuant with OAR345-024-0600. The rules
require the site certificate holder to specify a limitation on the annual average number of hours
that it will operate the plant with power augmentation.

Table 2 demonstrates the application of the hybrid CO\textsubscript{2} standard. First, it demonstrates
compliance for a 260 MW base load gas plant with a heat rate of 6,900 Btu/hr (HHV), as also
shown in Table 1. In addition, the table demonstrates compliance for a duct-burning element
that increases the capacity to 280 MW with a combined heat rate of 7,100 Btu/hr (HHV). For
demonstration purposes, Table 2 shows duct burning operating on average for 4,400 hours
annually. (By rule, the site certificate holder can specify no more than 6,600 hours (OAR 345-
024-0590(4)). The site certificate holder will specify these parameters based on its contract and
the limitation on operating hours, pursuant to proposed Condition V.A.4(5), when calculating the
monetary path payment requirements prior to beginning construction.

<table>
<thead>
<tr>
<th>Table 2. Coyote Springs, Phase Two with Power Augmentation</th>
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<tbody>
<tr>
<td><strong>Net Power Output (kW)</strong></td>
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<tr>
<td>----------------------------</td>
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<td>Capacity Factor</td>
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<tr>
<td>Heat Rate (Btu/kWh)(HHV)</td>
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<tr>
<td>CO\textsubscript{2} Emissions Rate (lb. CO\textsubscript{2}/Btu)</td>
</tr>
<tr>
<td>Total CO\textsubscript{2} Emissions (million lb.)</td>
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<tr>
<td>Difference in 30-year Output (million kWh)</td>
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<tr>
<td>Difference in Total CO\textsubscript{2} Emissions (million lb.)</td>
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<tr>
<td>Gross CO\textsubscript{2} Emissions rate (lb. CO\textsubscript{2}/kWh)</td>
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<tr>
<td>CO\textsubscript{2} Standard (lb. CO\textsubscript{2}/kWh)</td>
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<tr>
<td>Excess CO\textsubscript{2} Emissions Rate (lb. CO\textsubscript{2}/kWh)</td>
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<tr>
<td>Excess Tons CO\textsubscript{2} (million tons over 30 years)</td>
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<tr>
<td>Offset Fund Rate ($/ton CO\textsubscript{2})</td>
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<tr>
<td>Offset Funds Required ($ million)</td>
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<td>Contracting and Selection Funds ($ million)</td>
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<tr>
<td>Monetary Path Requirement ($ million)</td>
</tr>
<tr>
<td>Total Monetary Path Requirement with Power Augmentation ($ million)</td>
</tr>
</tbody>
</table>

Table 2 first calculates the difference between 1) the total plant output (million kWh) of the plant
operating full time in each mode—at base load and with duct burning (full power
augmentation)—and 2) the difference in gross CO₂ emissions (million lb. CO₂) between each mode. It then calculates the CO₂ emissions rate for the incremental kWh and applies the non-base load standard, which is 0.70 lb. CO₂/kWh. It then calculates the excess CO₂ emissions for 30 years, pro-rated by the limitation on the annual hours of operation provided by the site certificate holder. Once the excess emissions are calculated in tons, it applies the CO₂ fund offset rate of $0.57 per ton, pursuant to OAR 345-024-0600(3). The $0.57 is indexed to year 2000 dollars, based on the time the Council applies it.

Because these emissions are incremental to the base load gas plant, the appropriate contracting and selection fund rate is 4.286 percent, pursuant to OAR 345-024-0710(4). The calculation for the base load gas plant contracting and selection funds already accounts for the required $50,000 payment for the first $500,000 in offset funds.

In order to provide the site certificate holder the option of using duct burning or other power augmentation technologies for limited duration, the Office, in its proposed order, recommended the Council adopt proposed Condition V.A.4. The proposed condition gives the site certificate holder discretion to invoke it. Providing this flexibility in this amendment proceeding is particularly important because the Council is aware that PGE is negotiating to sell the site certificate for phase two, subject to Council approval in another proceeding. The proposed condition gives the current or new site certificate holder the option of taking advantage of the flexibility in OAR 345-024-0550 regarding hybrid plants without having to return to the Council for another amendment.

As discussed in Section B.2.6, the Northwest Environmental Advocates and Renewables Northwest Project, in their joint comments on the proposed order, pointed out that the index the Office proposed using to maintain the buying power of funds the certificate holder provides to meet the monetary path payment requirement has been falling, while inflation has been increasing. For the reasons stated by the Council in Section B.2.6, the Council changes the index from the “US Gross Domestic Product Deflator for Total Non-Residential Fixed Investment” to the “US Gross Domestic Product Implicit Price Deflator” as shown in condition V.A.4(1)(c) below.

In addition, the phrase “executed by the site certificate holder” in the first sentence of V.A.4(1) is unnecessary and confusing since the site certificate holder would not execute a bond, letter of credit or escrow account. Therefore, the Office has recommended striking this phrase as shown below. The Council concurs.

V. CONDITIONS ISSUED PURSUANT TO EFSC STANDARDS
A ***

This condition shall apply to phase two if the site certificate holder identifies power enhancement or augmentation technologies that increase the capacity and heat rate of phase two above the capacity and heat rate that it can achieve as a base load gas plant on a new and clean basis, as reported pursuant to Condition V.A.3(5). All provisions of this
condition shall be in addition to the requirements of Condition V.A.3. If the heat rate and
capacity of the base load gas plant that the site certificate holder reports pursuant to
Condition V.A.3(5) include the design and the base load operation of power augmentation
or enhancement technologies in excess of 6,600 hours annually on average, this condition
shall not apply. The monetary path payment requirements pursuant to Condition V.A.4
shall be supplemental to the monetary path payment requirements pursuant to Condition
V.A.3.

(1) Prior to commencement of construction of phase two, the site certificate holder shall
submit to the State of Oregon through the Council a bond, letter of credit or fully-
funded escrow account ("escrow account") executed by the site certificate holder in
the amount of the monetary path payment requirement (in 2000 dollars) as
determined by the calculations set forth in Condition V.A.4(4) and based on the
estimated heat rate and capacity certified pursuant to Condition V.A.4(5) below and
as adjusted in accordance with the terms of this site certificate pursuant to Condition
V.A.4(4)(b). When required concurrently, the site certificate holder shall combine
any letter(s) of credit required by Condition V.A.4 with the letter(s) of credit required
by Condition V.A.3. For the purposes of this site certificate, the "monetary path
payment requirement" means the offset funds determined pursuant to OAR 345-024-
0590 and 0600 and the selection and contracting funds determined pursuant to OAR
345-024-0710, as modified by Condition V.A.4(4)(b)(D), that the site certificate
holder must disburse to the Oregon Climate Trust, as the qualified organization,
pursuant to OAR 345-024-0710. The offset fund rate for all monetary path payment
requirements under Condition V.A.4 shall be $0.57 per ton of carbon dioxide (in 2000
dollars). The calculation of 2000 dollars shall be made using the index set forth
below in sub-section (c).

(a) In the event that the Council approves a new site certificate holder, the Council
shall approve the bond, letter of credit or escrow account from the new site certificate
holder(s) unless the Council finds that the proposed bond, letter of credit or escrow
account does not provide comparable security to the bond, letter of credit or escrow
account of the current site certificate holder. Such approval of a new bond, letter of
credit or escrow account will not require a site certificate amendment. The bond,
letter of credit or escrow account shall remain in effect until such time as the site
certificate holder has disbursed the full amount of the monetary path payment
requirement to the Oregon Climate Trust as provided in OAR 345-024-0710.

(b) If the site certificate holder has provided a bond, letter of credit or escrow
account prior to commencing construction and if calculations pursuant to Conditions
V.A.4(4)(b) and V.A.4(6) demonstrate that the site certificate holder must increase its
monetary path payments, the site certificate holder shall increase the bond, letter of
credit or escrow account sufficiently to meet the adjusted monetary path payment
requirement within the time required by Condition V.A.4(4)(b). The site certificate
holder may reduce the amount of the bond, letter of credit or escrow account
commensurate with payments it makes to the Oregon Climate Trust.
(c) The calculation of 2000 dollars shall be made using the US Gross Domestic Product Implicit Price Deflator for Total Non-Residential Fixed Investment, as published by the US Department of Commerce, Bureau of Economic Analysis, or any successor agency ("the index"). The amount of the bond, letter of credit or escrow account shall increase annually by the percentage increase in the index and shall be pro-rated within the year to the date of disbursement to the Oregon Climate Trust. If at any time the index is no longer published, the Council shall select a comparable calculation of 2000 dollars. The bond, letter of credit or escrow account shall not be subject to revocation prior to disbursement of the full monetary path payment requirement, including any adjusted monetary path payment requirement. The terms of the bond, letter of credit or escrow account and identity of the issuer shall be subject to approval by the Council, which approval shall not be unreasonably withheld.

(d) If the site certificate holder establishes an escrow account for the monetary path payment requirement, the portion of any interest accruing in the escrow account up to the time of disbursement to the Oregon Climate Trust that is equivalent to the 2000 dollar index adjustment (described in sub-section (c)) shall be for the benefit of the Oregon Climate Trust and shall be disbursed to the Oregon Climate Trust for use as specified in OAR 345-024-0710. Any remaining interest that exceeds the 2000 dollar adjustment at the time of disbursement of funds to the Oregon Climate Trust shall be disbursed to the site certificate holder on its request.

(2) The site certificate holder shall disburse to the Oregon Climate Trust offset funds and contracting and selection funds as requested by the Oregon Climate Trust up to the monetary path payment requirement as determined by the calculations set forth in Condition V.A.4(4) and based on the estimated heat rate, capacity, and limitations on the annual average hours of operation with power augmentation or enhancement technologies certified pursuant to Condition V.A.4(5) below (in 2000 dollars) and as adjusted in accordance with the terms of this site certificate pursuant to Condition V.A.4(4)(b). Disbursements shall be made in response to requests from the Oregon Climate Trust in accordance with the requirements of OAR 345-024-0710.

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

(4) The site certificate holder shall submit all monetary path payment requirement calculations to the Oregon Office of Energy for verification. All calculations shall be made assuming that no steam is supplied for cogeneration. The site certificate holder shall use the contracted design parameters for capacity and heat rate for phase two that it reports pursuant to Condition V.A.4(5) to calculate the estimated monetary
path payment requirement. The site certificate holder shall use the Year One Capacity and Year One Heat Rate that it reports for phase two pursuant to Condition V.A.4(6) to calculate whether it owes additional monetary path payments following the Year One Test and in subsequent five year periods, pursuant to sub-sections (b)(C) and (b)(D).

(a) The net carbon dioxide emissions rate for incremental emissions for phase two operating with power augmentation or enhancement technologies shall not exceed 0.70 pounds of carbon dioxide per kilowatt hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis, as modified by Condition V.A.4(5).

(b) When the site certificate holder submits the Year One Test report required in Condition V.A.4(6), it shall increase its bond, letter of credit or escrow account for the monetary path payment requirement if the calculation using reported data shows that the adjusted monetary path payment requirement exceeds the monetary path payment requirement for which the site certificate holder had provided a bond, letter of credit or escrow account prior to commencing construction, pursuant to Condition V.A.4(1).

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

(B) In no case shall the site certificate holder diminish the bond, letter of credit or escrow account it provided prior to commencing construction or receive a refund from the qualified organization based on the calculations made using the Year One Capacity and the Year One Heat Rate or payments required by calculations pursuant to sub-sections (C) and (D).

(C) Each five years after commencing commercial operation of the facility (“five-year reporting period”), the site certificate holder shall report to the Office the annual average hours the facility operated with power augmentation or enhancement technologies during that five-year reporting period, pursuant to OAR 345-024-0590(6).

(D) If the Office of Energy determines that phase two exceeds the projected incremental net total carbon dioxide emissions calculated pursuant to Condition V.A.4(4), prorated for five years, during any five-year reporting period described in sub-section (C), the site certificate holder shall offset excess emissions for the specific reporting period according to subsection (i) and shall offset the estimated future excess emissions according to subsection (ii) pursuant to OAR 345-024-0600(4). The certificate holder shall offset excess emissions using the monetary path as described in OAR 345-024-0710, except that contracting and selecting funds shall equal twenty (20) percent of the value of any offset funds up to the first $250,000 (in 2000 dollars) and 4.286 percent
of the value of any offset funds in excess of $250,000 (in 2000 dollars). The
site certificate holder shall make the funds available to the Oregon Climate
Trust within 60 days of its notification by the Office of the amount it owes.

(i) In determining the excess carbon dioxide emissions that the site
certificate holder must offset for a five-year period, the Office shall apply
OAR 345-024-0600(4)(a). The certificate holder shall pay for the excess
emissions at $0.57 per ton of CO2 emissions (in 2000 dollars). The Office
shall notify the certificate holder of the amount of payment required, using
the monetary path, to offset them.

(ii) The Office shall calculate estimated future excess emissions and
notify the certificate holder of the amount of payment required, using the
monetary path, to offset them. To estimate excess emissions for the
remaining period of the deemed 30-year life of the facility, the Office shall
use the parameters specified in OAR 345-024-0600(4)(b). The certificate
holder shall pay for the estimated excess emissions at $0.57 per ton of
carbon dioxide emissions (in 2000 dollars).

(5) Prior to commencement of construction of phase two, the site certificate holder shall
notify the Council in writing of its final selection of a gas turbine vendor and shall
submit written design information to the Council sufficient to verify phase two’s
designed new and clean heat rate and its nominal electric generating capacity at
average annual site conditions when operating with power augmentation or
enhancement technologies at full power. The site certificate holder shall also specify
the limit of the annual average hours it will operate the power augmentation or
enhancement technologies. Based on such written design and operational
information, pursuant to OAR 345-0590(1), the Council may approve, upon a request
by the site certificate holder, modified parameters for testing the power augmentation
or enhancement equipment on a new and clean basis in a manner that accommodates
technical limitations of the equipment. The Council’s approval of modified testing
parameters for power augmentation or enhancement equipment shall not require a site
certificate amendment. The report shall also include an affidavit or other evidence
that the site certificate holder or vendor has guaranteed the heat rate for operation
with power augmentation or enhancement.

(6) Within two months of completion of the first year of commercial operation of phase
two, the site certificate holder shall provide to the Council a test report (Year One
Test) of the actual heat rate (Year One Heat Rate) and nominal generating capacity
(Year One Capacity) for phase two operating with power augmentation or
enhancement technologies, without degradation, assuming no steam is supplied for
cogeneration, as determined by a test at full power completed during the first 12
months of commercial operation, with the results adjusted for the average annual site
condition for temperature, barometric pressure and relative humidity and use of
alternative fuels, and using a rate of 117 pounds of carbon dioxide per million Btu of
natural gas fuel. The full power test shall be 100 hours duration unless the Council has approved a different duration pursuant to Condition V.A.4(5).

Condition V.A.4 is similar to Condition V.A.3, with changes to reflect the different CO\textsubscript{2} standard and method of compliance.

- The introductory paragraph in Condition V.A.4 notes that application of the condition is discretionary, based on whether and how the site certificate holder reports its use of power augmentation technologies. It also notes that all monetary path payment requirements under Condition V.A.4 are supplemental to those required by Condition V.A.3.

- Conditions V.A.4(1) and (2) cover the specifics of providing funds to the Oregon Climate Trust under the monetary path. Condition V.A.4(1) indexes the $0.57/ton CO\textsubscript{2} offset fund rate to year-2000 dollars.

- Condition V.A.4(3) paraphrases OAR 345-024-0710(5) concerning the site certificate holders’ non-liability regarding performance of the Oregon Climate Trust.

- Condition V.A.4(4) relates to the calculation of the excess CO\textsubscript{2} emissions and the monetary path payment requirement. As proposed for Condition V.A.3(4), the condition requires the site certificate holder to provide all of its calculations to the Office of Energy for verification. This condition specifies the appropriate CO\textsubscript{2} emissions standard at 0.7 lbs. CO\textsubscript{2}/kWh. It specifies the calculations of any supplemental offset payments that may be required, based on first year testing and sequential five-year operational periods.

- Condition V.A.4(5) requires the site certificate holder to report the designed capacity and heat rate for operating with power augmentation and the limitation on the annual number of hours the site certificate holder intends to operate with power augmentation. It further provides for the Council to approve, outside of an amendment process, modifications to the testing requirements on a new and clean basis if necessary to accommodate technical limitations on the power augmentation equipment.

- Condition V.A.4(6) specifies the report due from the new and clean test during the first year of operation.

Conclusion. The Council finds that proposed Condition V.A.4, as modified, provides an optional and supplemental path for meeting the requirements of the CO\textsubscript{2} standard, OAR 345-024-0550, et seq.

E.4 OAR Chapter 345, Division 27: Council Mandatory and Site Specific Conditions

OAR 345-027-0020 requires that the Council impose 14 specified, or “mandatory,” conditions in every site certificate. OAR 345-027-0023 authorizes the Council to include specified conditions in a site certificate, as appropriate on a site-specific basis. The Amended Site Certificate contains each of these conditions, or conditions that are substantially similar to these conditions, except for Mandatory Conditions in OAR 345-027-0020(2), (7), (8), (9), and (12) and Site Specific Conditions in OAR 345-027-0023(4), (8) and (11).
Mandatory Condition, OAR 345-027-0020(2), requires that before beginning construction the certificate holder shall submit to the Office a legal description of the site. The Office recommended that the Council add the following condition to the site certificate as Mandatory Condition (18):

(18) Before beginning construction of phase two, the certificate holder shall submit to the Office of Energy a legal description of the site. The Office shall append the legal description to the site certificate.

Mandatory Condition, OAR 345-027-0020(7), relates to site restoration and is addressed in Section E.2.15 of this order.

Mandatory Conditions, OAR 345-027-0020(8) and (9), relate to financial assurance and are addressed in Section E.2.3 of this order.

Mandatory Condition, OAR 345-027-0020(12), relates to seismic hazards and is addressed in Section E.2.4 of this order.

Site Specific Condition, OAR 345-027-0023(4), relates to related or supporting electrical transmission lines and requires the certificate holder to restore radio and television reception to the level present prior to operation of the transmission line at no cost to residents. In its proposed order the Office recommended that the Council add OAR 345-027-0023(4) to the site certificate as Mandatory Condition (19) as follows:

(19) The certificate holder shall restore the reception of radio and television at residences and commercial establishments in the primary reception area to the level present prior to operations of the electrical transmission line described in Section II.B.2, at no cost to residents experiencing interference resulting from the transmission line.

As discussed in Section B.2.6, PGE, CS2 and Avista Power raised concern about the proposed condition and requested the Council not adopt it. Their letter points out that the site specific conditions in OAR 345-027-0023 are not mandatory conditions, but are discretionary conditions that the Council may or may not include in a site certificate. As discussed in Section B.2.6, the Council finds that in this case it is not necessary to impose this condition on phase two.

Site Specific Condition, OAR 345-027-0023(8), is included in the carbon dioxide emissions conditions V.A.3 (5) and V.A.4(5) in Section E.3 of this order.

Site Specific Condition, OAR 345-027-0023(11), is included in the carbon dioxide emissions conditions V.A.3 and V.A.4. in Section E.3 of this order.

Conclusion. The Council finds that proposed Mandatory Condition (18) is necessary for the certificate holder to comply with OAR 345-027-0020(2) and OAR 345-027-0070(9) and the Council therefore adopts the proposed condition.
F. Compliance with Other Standards and Requirements
Under OAR 345-022-0000(1)(b), the Council must determine that the facility complies with all other applicable Oregon Statutes and administrative rules.

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

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

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

F.2. Other State Regulations Within the Council’s Jurisdiction

F.2.1. Oregon Department of Transportation (ODOT) -- State Highways Rights-Of-Way
The proposed extension of time for completing construction has no effect on the Council’s finding, in the Final Order, that the CSCP involves no facilities that would be constructed in or affect state highway rights-of-way.

F.2.2. Oregon Division of State Lands (DSL) -- Fill and Removal of Waters of the State
The proposed extension of time for completing construction has no effect on the Council’s finding, in the Final Order, that the CSCP project does not involve state-owned lands and requires no DSL permits.

F.2.3. Oregon Department of Forestry (ODF) -- Forest Lands and Practices
The proposed extension of time for completing construction has no effect on the Council’s finding, in the Final Order, that no ODF permitting requirements or rules are applicable to the project.

F.2.4. Oregon Department of Parks and Recreation (ODPR) -- State Parks
The proposed extension of time for completing construction has no effect on the Council’s finding, in the Final Order, that the project raises no significant concerns related to state parks.

Conclusion. The Council finds that the CSCP meets all other applicable Oregon Statutes and administrative rules as required by OAR 345-022-000(1)(b).
G. Unified Site Certificate
On October 22, 1998, the Council issued the “First Amended Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project,” which incorporated all deletions and additions to the site certificate approved by amendments #1 through #4. Upon granting amendment #5, the Council will issue a unified site certificate in the form of a “Second Amended Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project,” which will incorporate amendments #1 through #5. The Council has pending a request for a partial transfer of the CSCP site certificate (amendment request #6). The Second Amended Site Certificate will also incorporate amendment #6, if the Council approves that request.

H. Conclusions about the Request for Amendment
The Council finds that the request to extend the construction deadline for CSCP phase two, as modified by the Council and subject to the conditions in this order, is consistent with current Council rules, with other applicable state statutes and rules, and with statewide land use planning goals, and will not cause a significant adverse impact to public health and safety or the environment. In preparing this order, the Council has considered state statutes, administrative rules, and local government ordinances in effect at this time, and whether the facility complies with all Council standards in effect at this time.

Based on the above findings, reasoning and conclusions, the Council amends the First Amended Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project as PGE requests in its Fifth Request to Amend Site Certificate and its Supplemented Fifth Request, dated April 18, 2000, subject to, and with the modifications noted in this order.

FINAL ORDER

Based on the above findings of fact, discussions and conclusions of law, the Energy Facility Siting Council approves PGE’s Fifth Request to Amend Site Certificate, with modifications discussed in this order. The Council Chair shall execute the site certificate amendment in the form of the “Second Amended Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project.” The Second Amended Site Certificate will incorporate amendments #1 through #5. However, if the Council approves amendment request #6 for a partial transfer of the site certificate, the Second Amended Site Certificate will incorporate both amendments #5 and #6. The Second Amended Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project will then include amendments #1 through #6.


Karen H. Green
Chair
Energy Facility Siting Council

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June 23, 2000
Notice of the Right to Appeal

You have the right to appeal this order to the Oregon Supreme Court as provided in Oregon Revised Statutes (ORS) 469.405. To appeal you must file a petition for judicial review with the Supreme Court within 60 days from the day this order was served on you. If this order was personally delivered to you, the date of service is the date you received this order. If this order was mailed to you, the date of service is the date it was mailed, not the day you received it. If you do not file petition for judicial review within the 60-day time period, you lose your right to appeal.