

1                                   BEFORE THE ENERGY FACILITY SITING COUNCIL  
2                                   OF THE STATE OF OREGON  
3  
4

5 In the Matter of the Thermal Power            )  
6 Plant Site Certificate for the                )           FINAL ORDER  
7 Coyote Springs Cogeneration Project        )  
8 Request for Amendment No. Five            )

9  
10  
11 **Summary**

12 The Energy Facility Siting Council (“Council” or “EFSC”) approves this amendment request  
13 with modified and new conditions in the site certificate.  
14

15 **A.        Summary and Background of the Request for Amendment**

16 Portland General Electric Company (“PGE”) requests that the Council amend the site certificate  
17 for the Coyote Springs Cogeneration Project (“CSCP”). PGE requests that the Council extend  
18 the date by which phase two of the plant must be completed from September 16, 2001, to  
19 September 16, 2003. PGE also requests the Council amend the site certificate to apply the  
20 recently adopted carbon dioxide emissions standard in OAR 345-024-0550 to phase two, and to  
21 apply the new carbon dioxide rules for hybrid power plants to phase two.  
22

23 PGE’s address is as follows:

24       Portland General Electric Company  
25       121 SW Salmon Street  
26       Portland, Oregon 97204  
27

28 **A.1.     Description of the Facility**

29 On September 16, 1994, the Council adopted a Final Order and issued the “Thermal Power Plant  
30 Site Certificate for the Coyote Springs Cogeneration Project” (“Site Certificate”) to PGE for a  
31 natural gas-fired cogeneration power plant and related and supporting facilities (collectively, the  
32 “facility”) located in the Port of Morrow Industrial Park in Boardman, Oregon. The facility is  
33 known as the Coyote Springs Cogeneration Project. The CSCP is a two-unit, natural gas-fired  
34 combustion turbine, combined-cycle, electric power plant with a total capacity of 462  
35 megawatts. The first phase (unit 1) is in operation. PGE has not begun construction of the  
36 second phase (unit 2). The request for extension of the construction completion deadline applies  
37 only to phase two.  
38

39 The approved site for both phases is about 20 acres. PGE cleared, graded and fenced the entire  
40 site at the time it built phase one. The second phase will be built adjacent to the first phase on  
41 land within the approved, fenced site.  
42

43 **A.2 .    Earlier Amendments of the Site Certificate**

44 **A.2.1.   Amendment #1**

45 The Council granted PGE a first amendment to the CSCP site certificate on December 6, 1996.  
46 That amendment incorporated into the site certificate specific conditions that were originally

1 commitments made by PGE in its site certificate application and supporting documents. The  
2 Council's order approving the amendment further approved an amendment to incorporate the  
3 applicability of current OAR 345-027-0050 through OAR 345-027-0080 and OAR 345-027-  
4 0095.

5  
6 **A.2.2. Amendment #2**

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

10  
11 **A.2.3. Amendment #3**

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

24  
25 **A.2.4 Amendment #4.**

26 The Council issued a fourth amendment to the CSCP site certificate on October 22, 1998.  
27 Amendment #4 extended the date by which phase two of the plant must be completed from  
28 September 16, 1999, to September 16, 2001.

29  
30 On October 22, 1998, the Council also issued the "First Amended Thermal Power Plant Site  
31 Certificate for the Coyote Springs Cogeneration Project" ("Amended Site Certificate"), which  
32 incorporated all deletions and additions approved by amendments #1 through #4 into a single site  
33 certificate.

34  
35 **B. Procedural History**

36 **B.1. Applicable Law**

37 Under ORS 469.405, the Council may approve an amendment to a site certificate. The Council  
38 has adopted rules for the amendment process in OAR 345, Division 27 (February 2000).

39  
40 Section VII of the Amended Site Certificate provides that "Amendments shall be made in  
41 accordance with OAR Chapter 345, Division 27 or EFSC rules applicable and in effect at the  
42 time the amendment is sought." Moreover, the Council, in its order approving Amendment #1,  
43 confirmed that it will process subsequent requests for amendments or petitions by PGE under the  
44 Council's most current procedural rules. Therefore, current OAR 345-027-0030 is applicable to  
45 PGE's request to extend the date by which the plant must be completed. Current OAR 345-027-  
46 0070 provides rules for the Council's review of a request for amendment.

1 **B.2. Office of Energy Review Steps**

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

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

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

10 As required by OAR 345-027-0070(1)(a), the Office notified potentially affected agencies, local  
11 governments and tribes and asked them to review PGE's request for amendment #5. On March  
12 16, 2000, the Office mailed a copy of PGE's amendment request along with a agency response  
13 form to the agencies, local governments and tribes listed in OAR 345-020-0040 and asked them  
14 to reply by April 7, 2000.

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

27  
28 On March 17, 2000, the Office mailed a notice of PGE's amendment request for amendment to  
29 all persons on the Council's general mailing list and adjacent property owners identified by PGE,  
30 as required by OAR 345-027-0070(1)(b). The Office also mailed the notice to all persons on the  
31 Council's CSCP-specific mailing list. The notice specified that comments on the request would  
32 be due by April 7, 2000.

33  
34 On March 23, 2000, as required by OAR 345-027-0070(1)(c), the Office mailed notice to PGE  
35 stating that the amendment request would not require extended review and the Office anticipated  
36 issuing a proposed order for amendment #5 by late April 2000. In the notice, the Office  
37 indicated that that it anticipated that the request would be ready for Council action before the end  
38 of June 2000. The notice also requested that PGE provide certain additional information. On  
39 March 30, 2000, PGE and the Office discussed the March 23 letter via a telephone conference  
40 call.

41  
42 **B.2.3. Replies**

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

44 DOGAMI, NWPPC and DEQ replied to the Office's request for comment. None raised any  
45 issue with PGE's amendment request.

46 /

1 **B.2.3.2. Cities and Counties**

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

7  
8 **B.2.4. Proposed Order**

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

10  
11 **B.2.5. Notice**

12 On April 26, 2000, the Office mailed notice of the proposed order to the Council’s general  
13 mailing list and a special mailing list established for the facility, as required under OAR 345-  
14 027-070(4). The notice set a deadline for public comments of May 26, 2000, and gave notice of  
15 the opportunity to ask that the Council hold a contested case proceeding on the proposed order.

16  
17 **B.2.6. Public Comments on the Proposed Order**

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

21  
22 NEA and RNP pointed out that the index based on the US Gross Domestic Product Deflator for  
23 Total Non-Residential Fixed Investment that the Office proposed using to maintain the buying  
24 power of money for CO<sub>2</sub> mitigation has been falling while the indices of inflation are rising.  
25 Thus any extension or delay in constructing phase two would result in a continually decreasing  
26 amount of money for CO<sub>2</sub> mitigation, contrary to the Council’s implicit intent that such monies  
27 retain their purchasing power. They also report that the preliminary indications from the Oregon  
28 Climate Trust’s current process for selecting offset projects are that the average price of credible  
29 projects will likely be significantly higher than 57 cents per ton of carbon dioxide deemed as the  
30 offset fund rate.

31  
32 According to NEA and RNP, the problem with the US Gross Domestic Product Deflator for  
33 Total Non-Residential Fixed Investment is that that index is composed of structures, equipment,  
34 and software and is dominated by computers and information-related equipment and software.  
35 Because computers and software have been declining in price, the whole index is declining over  
36 time. The index represents only 12 percent of the economy, which is a narrow slice. They  
37 recommended that the Council apply the comprehensive and balanced US Gross Domestic  
38 Product index as the more appropriate one for adjusting the offset fund rate to reflect general cost  
39 changes and preserve the purchasing power of the offset funds.

40  
41 The Council agrees with NEA and NRP that the use of the US Gross Domestic Product for Total  
42 Non-Residential Fixed Investment, as required by Condition V.A.3(1)(c) and as the Office  
43 proposed for Condition V.A.4(1)(c), is not the proper index for tracking the real dollar value of  
44 offset funds. That index represents a narrow slice of the economy and in particular is not related  
45 to the breadth of activities that could potentially be funded through offset funds. That index has  
46 the effect of lowering the amount of funds available for acquiring offsets over time. The Council

1 knows of no data that suggest that the cost of offsets is declining. The Council notes that it used  
2 the comprehensive index of the US Gross Domestic Product Implicit Price Deflator in the site  
3 certificate for the Klamath Cogeneration Project (granted August 1997) which was the first site  
4 certificate to impose conditions for offsetting CO<sub>2</sub> emissions. This is a balanced index that better  
5 reflects general cost changes and preserves the purchasing power of the monetary path payments  
6 in Condition V.A.3(1)(c). The Council finds that this index is the appropriate index for offset  
7 funds.

8  
9 For Condition V.A.3(1)(c), the Council is changing an existing condition when it redefines the  
10 index. It does so pursuant to OAR 345-027-0030(5), which requires the site certificate holder of  
11 a base load gas plant to comply with the carbon dioxide standard in effect at the time of the  
12 Council's order. Condition V.A.3(1)(c) implements OAR 345-024-0710(6) for phase two as a  
13 base load gas plant. That rule requires the Council to specify an "appropriate inflation index."  
14 OAR 345-024-0710(6) states:

15  
16 For monetary path payments a certificate holder must make before beginning  
17 construction, the certificate holder shall make all offset fund payments and all payments  
18 required by section (4) to the qualifying organization in real dollars of the year in which  
19 the Council issues a final order applying the carbon dioxide emissions standard to the  
20 energy facility. In the site certificate, the Council shall specify an appropriate inflation  
21 index for calculating real dollars.

22  
23 Comments by NEA and NRP in this proceeding have alerted the Council that the Office in its  
24 proposed order does not specify an appropriate index. The Council's substitution of a new index  
25 corrects this choice of an inappropriate index. Furthermore, in August 1998, at the time the  
26 Council approved the current Condition V.A.3(1)(c), the Council's rules did not provide  
27 guidance regarding maintenance of real dollars for monetary path payments. The Council  
28 adopted those rules in February 1999. By changing the index, the Council is complying with its  
29 later-adopted rules.

30  
31 Condition V.A.4(1)(c) is a new condition that the Office proposed in its proposed order for  
32 Amendment #5 on April 26, 2000. It contained the same index as the original Condition  
33 V.A.3(1)(c). The condition applies to a base load gas plant that uses duct burning or other power  
34 enhancement or augmentation options that increase its capacity and heat rate above those that the  
35 plant would achieve under base load operation. OAR 345-024-0710(6) further states:

36  
37 ...if the certificate holder must make a payment as described in OAR 345-024-0600(4),  
38 the certificate holder shall make a payment that has the same present value per ton of  
39 carbon dioxide as the monetary path offset rate of the year in which the Council issued  
40 the final order applying the carbon dioxide standard. In the site certificate, the Council  
41 shall specify the methodology for calculating present value.

42  
43 For the reasons cited above, the Council finds that the appropriate index for Condition  
44 V.A.4(1)(c) should be based on the US Gross Domestic Product Implicit Price Deflator.

45 /

1 Section E.3 of this order addresses the changes to Conditions V.A.3(1)(c) and V.A.4(1)(c), based  
2 on the discussion above.

3  
4 Although NEA and RNP did not address the financial assurance standard, the issues they raised  
5 also caused the Council to reconsider the index the Office proposed in its proposed order in new  
6 Condition IV.15(b) relating to the financial assurance standard. The site certificate had  
7 previously relied solely on a general statement of warranty for financial assurance and did not  
8 specify an index. For the same reasons stated above, the Council finds that the broader US Gross  
9 Domestic Product Implicit Price Deflator will more likely track the real costs of retiring the plant  
10 over the coming decades than a standard based on a narrow slice of the economy that is  
11 dominated by elements such as equipment and software. Therefore, the Council will use the US  
12 Gross Domestic Product Implicit Price Deflator as the index for Condition IV.15(b).

13  
14 Section E.2 of this order addresses the changes to the conditions for meeting the financial  
15 assurance standard, based on the discussion above.

16  
17 PGE, CS2 and Avista Power in a letter dated May 22, 2000, stated concern about the Office's  
18 proposed Mandatory Condition 19 regarding restoring radio and television reception that might  
19 be affected by the CSCP's electrical transmission line. The letter points out that the electrical  
20 transmission line to which this standard would apply has been built and is in operation. The  
21 letter also points out that the site-specific conditions in OAR 345-027-0023 are not mandatory  
22 conditions, but are discretionary conditions that the Council may or may not include in a site  
23 certificate.

24  
25 The Council believes that in this case it is not necessary to impose this condition on phase two.  
26 As PGE, CS2 and Avista Power point out, the electrical transmission line was built when PGE  
27 built phase one and has been in service since early 1996. The Council is aware of no complaints  
28 about interference with either radio or television reception from the line. The line is one and  
29 one-half miles in length. It is located entirely on lands owned by the Port of Morrow or the City  
30 of Boardman. Based on PGE's 1994 application, this land is zoned either PI (Port Industrial) or  
31 MG (General Industrial). This issue is discussed in Section E.4.

### 32 33 **B.3. Council Review Steps**

#### 34 **B.3.1. Council Notice**

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

41  
42 The Office mailed its proposed order to the Council on April 26, 2000.

#### 43 44 **B.3.2. Council Hearing and Action**

45 The Office mailed a recommended final order to the Council on June 7, 2000. The Office gave  
46 notice to the public on June 6, 2000, that the Council would make a decision on the transfer  
47 request at a telephone conference meeting on June 15, 2000.

1 The Council considered the recommended final order at a special telephone conference meeting  
2 on June 15, 2000. Representatives of Enron, PGE, CS2 and Avista Power participated in the  
3 conference call. At the meeting, the Office presented information about the recommended final  
4 order. Following the presentation and comments by PGE, CS2 and Avista, the Council approved  
5 the final order for amendment #5 and authorized the Office to prepare the order for the Chair's  
6 signature.

7  
8 **C. General Findings of Fact Related to the Request for Amendment**

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

10 PGE's amendment request includes three components. (1) PGE requests an extension to the  
11 construction completion date for phase two of the CSCP from September 16, 2001, to September  
12 16, 2003. (2) PGE requests that the Council clarify that "complete construction" and  
13 "construction completion" as used in the Amended Site Certificate mean the commercial  
14 operation date of phase two. (3) PGE requests an amendment to apply the recently adopted  
15 carbon dioxide emissions standard for base load gas plants in OAR 345-024-0550 to phase two  
16 and to apply the new rules for carbon dioxide emissions from power augmentation technologies  
17 for so-called "hybrid power plants" in OAR 345-024-0550 to phase two.

18  
19 **C.2. Amendment to Extend Construction Beginning and Completion Deadlines**

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

22  
23 (1) The certificate holder may request an amendment to extend the deadlines for  
24 beginning or completing construction of the facility that the Council has specified  
25 in a site certificate or an amended site certificate. The certificate holder shall  
26 submit a request that conforms to the requirements of 345-027-0060 no later than  
27 six months before the date of the applicable deadline, or, in the case of  
28 circumstances beyond the control of the certificate holder and described in the  
29 request, no later than the applicable deadline.

30  
31 (2) A request within the time allowed in section (1) to extend the deadlines for  
32 beginning or completing construction suspends those deadlines until the Council  
33 acts on the request.

34  
35 (3) The Council shall review the request for amendment as described in OAR  
36 345-027-0070.

37  
38 (4) If the Council grants an amendment under this rule, the Council shall specify  
39 new deadlines for beginning or completing construction that are not more than  
40 two years from the deadlines in effect before the Council grants the amendment.

41  
42 (5) For energy facilities subject to OAR 345-024-0550, OAR 345-024-0590, or  
43 OAR 345-024-0620, the Council shall not grant an amendment extending the  
44 deadline for beginning or completing construction unless the certificate holder  
45 demonstrates compliance with the carbon dioxide standard in effect at the time of  
46 the Council's order on the amendment.

1 **Discussion.** PGE requested the extension of the construction completion deadline in advance of  
2 the minimum required notice of six months. PGE submitted proposed amendments to change the  
3 conditions specific to the construction completion date and to clarify the meaning of completion  
4 of construction. PGE also acknowledged that the new carbon dioxide emissions standard in  
5 OAR 345-024-0550 will apply to phase two if the Council grants an extension. However,  
6 because of the complexity of the carbon dioxide emissions rules, PGE did not propose conditions  
7 to implement the current rules. The Office proposed specific condition language in Section E.3.  
8 of its proposed order to add to the site certificate to ensure that phase two complies with current  
9 carbon dioxide emissions requirements.

10  
11 PGE's request to extend the construction completion deadline for phase two of the CSCP raises a  
12 special concern. Condition V.A.2(5) of the Amended Site Certificate specifically prohibits any  
13 further extension of the construction completion deadline beyond September 16, 2001. This  
14 condition is, in part, a vestige from the original Council decision that was made in 1994 when  
15 state statutes and Council rules required that proposed power plants meet a "need for power"  
16 standard. It is also a reflection of the Council's concern about "site banking" in which the  
17 Council is asked to approve a facility well in advance of when the owner intends to build the  
18 facility.

19  
20 In 1994, when the Council approved the CSCP, state statutes and Council rules required that the  
21 Council determine that a power plant was needed before the Council could approve the plant.  
22 The original construction completion deadline stated in section V.A.2(1) of the original site  
23 certificate is five years from the date of execution of the site certificate, or September 16, 1999.  
24 The Council extended the construction completion date to September 16, 2001, in Amendment  
25 No. 4 to the site certificate and incorporated it in the First Amended Site Certificate.

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

39  
40 The 1997 Oregon Legislature passed, and the Governor signed, House Bill 3283, which removed  
41 the need for facility standard for generating plants and added a carbon dioxide standard. The  
42 statute specifically provided that a facility that had to meet the need standard prior to beginning  
43 construction would instead be required to meet the carbon dioxide standard. The Council  
44 applied this statute to phase two of CSCP in Amendment No. 3 With Amendment 3, the need for  
45 facility standard no longer applied to phase two. That action also removed the rationale for  
46 requiring plants to built within a short-term to meet identified needs. (However, as discussed

1 below there are additional considerations in determining the appropriate period for construction  
2 beginning and completion deadlines.)

3  
4 Council amendments to OAR 345-027-0030, effective April 14, 1999, revised paragraph (4) of  
5 that rule to allow the Council to extend the commencement or completion of construction  
6 deadlines in two-year increments, but without a maximum time limit. Without the need standard  
7 for generating facilities and without a prohibition in rule of allowing multiple extensions of the  
8 construction completion deadline, there is no longer a rationale for absolutely prohibiting CSCP  
9 to extend its construction completion deadline beyond September 16, 2001.

10  
11 When it issued the original final order and site certificate for CSCP, the Council was also  
12 concerned that issuing open-ended, or long-term, site certificates would encourage site banking.  
13 It wanted to avoid a situation where site certificate holders could forestall the construction of  
14 authorized projects indefinitely until market conditions favored their development, at which time  
15 the banked projects could be constructed and operated under outdated and potentially less  
16 stringent standards than those in effect at the time of the actual development.

17  
18 While site banking remains a valid concern, in 1999 the Council revised its rules to allow greater  
19 flexibility in the issuance of construction completion date extensions while still enabling it to  
20 maintain control over attempts at site banking. OAR 345-027-0070(9)(b) makes it clear that a  
21 facility must meet current Council standards if the Council extends the construction beginning or  
22 completion deadline. It further provides that the Council must review the findings upon which it  
23 based its earlier decisions to ensure that they reflect current circumstances.

24  
25 PGE has notified the Council that engineering and procurement activities for phase two began in  
26 April, 2000 and that full-scale development of phase two will go forward as soon as the sale of  
27 phase two is finalized and the Council approves a partial transfer of the site certificate to the new  
28 owner. PGE and Enron state that they anticipate that phase two will be built and ready for  
29 commercial operation in June 2002. Therefore, further site banking is unlikely to be an issue for  
30 phase two. In fact, extending the construction completion deadline will enable the sale to go  
31 forward and construction to begin immediately. Because phase two is being built in conjunction  
32 with an operating phase one and as part of facility that was originally designed and sited for two  
33 units, it is appropriate to extend the construction deadline so that phase two can now be  
34 constructed.

35  
36 Thus, despite the unequivocal warranties and conditions in the site certificate concerning the  
37 construction completion deadline, the subsequent relevant amendments to OAR 345-027-0030  
38 and 0070(9) authorize the Council to grant additional extensions to the deadline, provided that  
39 the applicant meets the conditions of those sections and all current Council standards. PGE's  
40 compliance with the requirements of OAR 345-027-0070(9)(b)(B) is explained below in  
41 Sections E and F.

42  
43 **Conclusion.** The Council may and should delete the sentence in Condition V.A.2(5) that sets an  
44 absolute limit on the construction completion deadline.

45 /  
46 /

1 **D. Amendment of the Site Certificate**

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

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

5  
6 V.A.2. Construction commencement and completion dates

- 7  
8 (1) Applicant shall begin construction of phase one of the proposed facility within  
9 one year after the site certificate is executed. This one-year time period shall be  
10 tolled during any appeal that is taken of the Energy Facility Siting Council  
11 (EFSC) Order. Notwithstanding the tolling of the one-year time period for  
12 commencement of construction, Applicant shall complete construction of phase  
13 one by September 16, 1998, and phase two shall be completed by September 16,  
14 2001-2003. For purposes of this requirement, completion of construction shall  
15 mean that the facility is ready to commence commercial operation.

16 \*\*\*

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

21  
22 **Discussion.** PGE requests the Council clarify the definition of “completion of construction”  
23 with respect to phase two. PGE notes that the term is defined as the date of commercial  
24 operation in other site certificates for gas-fired combustion turbines. PGE asks that the site  
25 certificate be read to conform with this definition.

26  
27 The Council agrees that the term “complete construction” should be clarified, and that it should  
28 be used in the Coyote Springs site certificate consistently with the way it has been defined in site  
29 certificates for similar facilities. The Office recommended amending Condition V.A.2(1) as  
30 shown below, rather than as proposed by PGE, to make the term applicable wherever it occurs in  
31 the site certificate.

- 32  
33 (1) Applicant shall begin construction of phase one of the proposed facility within  
34 one year after the site certificate is executed. This one-year time period shall be  
35 tolled during any appeal that is taken of the Energy Facility Siting Council  
36 (EFSC) Order. Notwithstanding the tolling of the one-year time period for  
37 commencement of construction, Applicant shall complete construction of phase  
38 one by September 16, 1998, and phase two shall be completed by September 16,  
39 2001-2003. Completion of construction of phase two means the date of  
40 commercial operation of phase two. [Amendment #5]

41  
42 The Council also agrees with PGE's proposal that the first sentence in Condition V.A.2(5), that  
43 sets an absolute limit on the construction completion deadline, be removed from the site  
44 certificate. As discussed in Section C.2, Condition V.A.2(5) reflects a limitation from an earlier  
45 situation and relates to the purposes of the former need for facility standard for generating plants.  
46 There is now no limit in the rules for how many times the Council may extend a construction

1 completion deadline, provided it is not for longer than two years at a time and provided the site  
2 certificate holder can meet the Council's standards. Furthermore, while the provision for not  
3 tolling the deadline remains relevant, the reference to warranties is not. The Office proposed the  
4 following amendments to V.A.2(5):

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

10  
11 **Conclusion.** The Council amends Condition V.A.2(1) and Condition V.A.2(5) as the Office  
12 proposes in this section.

13  
14 **D.2. Amendments Proposed by the Office of Energy**

15 In order to fulfill the requirements of OAR 345-027-0030 and OAR 345-027-0070(9), the Office  
16 proposed a number of additional conditions be added to the site certificate. These proposed  
17 conditions address compliance with the Council's carbon dioxide emissions standard and rules in  
18 OAR 345-024-0550 through OAR 345-024-0720, and add mandatory and site specific conditions  
19 that are required by Council rules in OAR 345-027-0020 and OAR 345-027-0023. These are  
20 each discussed under the appropriate standard in Section E, "Compliance with Council Standards  
21 and Requirements," of this order.

22  
23 **E. Compliance with Council Standards and Requirements**

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

28  
29 The following discussion of applicable standards addresses the current (February 2000) version  
30 of the rules in OAR Chapter 345, Divisions 22, 24, and 27.

31  
32 **E.1. General Standard of Review**

33 OAR 345-027-0070 sets forth the Council's process for reviewing requests for amendments,  
34 including those requesting an extension of the deadline for completing construction. Subsection  
35 (9) sets forth the Council's general standard for review of a request by a site certificate holder for  
36 an amendment:

37  
38 In making a decision to grant or deny issuance of an amended site certificate,  
39 the Council shall apply state statutes, administrative rules, and local government  
40 ordinances in effect on the date the Council makes its decision and shall  
41 consider the following:\*\*\*

42  
43 **E.2. OAR Chapter 345, Division 22: General Siting Standards**

44 The Council's General Standard of Review, OAR 345-022-0000, has been amended since the  
45 Council granted the CSCP site certificate in 1994 and since the Council approved amendment #4  
46 in 1998. OAR 345-022-0000(1) states:

1 (1)...to amend a site certificate, the Council shall determine that the  
2 preponderance of the evidence on the record supports the following conclusions:  
3

4 (a) The facility complies with the requirements of the Oregon Energy  
5 Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to  
6 469.619, and the standards adopted by the Council pursuant to ORS  
7 469.501 or the overall public benefits of the facility outweigh the damage  
8 to the resources protected by the standards the facility does not meet as  
9 described in section (2);  
10

11 (b) Except as provided in OAR 345-022-0030 for land use compliance and  
12 except for those statutes and rules for which the decision on compliance  
13 has been delegated by the federal government to a state agency other than  
14 the Council, the facility complies with all other Oregon statutes and  
15 administrative rules identified in the project order, as amended, as  
16 applicable to the issuance of a site certificate for the proposed facility. If  
17 the Council finds that applicable Oregon statutes and rules, other than  
18 those involving federally delegated programs, would impose conflicting  
19 requirements, the Council shall resolve the conflict consistent with the  
20 public interest. In resolving the conflict, the council cannot waive any  
21 applicable state statute.  
22

23 Section E discusses compliance with ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and  
24 the standards adopted by the Council pursuant to ORS 469.501. Section F discusses compliance  
25 with other Oregon statutes and administrative rules that are applicable to the CSCP site  
26 certificate.  
27

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

29 To meet subsection (1) of the standard, the Council must find that:  
30

31 (1)...the applicant has the organizational, managerial and technical expertise to  
32 construct and operate the proposed facility. To conclude that the applicant has the  
33 organizational, managerial and technical expertise to construct and operate the  
34 proposed facility, the Council must find that the applicant has a reasonable  
35 probability of successful construction and operation of the proposed facility  
36 considering the experience of the applicant, the availability of technical expertise  
37 to the applicant, and the past performance of the applicant in constructing and  
38 operating other facilities, including, but not limited to, the number and severity of  
39 regulatory citations, in constructing or operating a facility, type of equipment, or  
40 process similar to the proposed facility.  
41

42 Subsection (2) of the standard states:  
43

44 (2) The Council may base its findings under section (1) on a rebuttable  
45 presumption that an applicant has organizational, managerial and technical

1 expertise, if the applicant has an ISO 9000 or ISO 14000 certified program and  
2 proposes to design, construct and operate the facility according to that program.”  
3

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

10  
11 Subsection (2) does not impose a requirement; rather, it provides a rebuttable presumption of  
12 organizational, managerial and technical expertise upon which an applicant may rely. PGE does  
13 not have an ISO 9000 or ISO 14000 certified program. Therefore, PGE did not request that the  
14 Council rely on this rebuttable presumption.

15  
16 **Conclusion.** The Council finds that PGE has satisfied the requirements of OAR 345-022-  
17 0010(1). The Council finds that PGE did not request a rebuttable presumption of expertise based  
18 on OAR 345-022-0010(2).

19  
20 **E.2.2. Third-Party Services and Permits, OAR 345-022-0010(3) and (4)**

21 Subsections (3) and (4) of the standard for organizational, managerial and technical expertise  
22 address third party services and permits. These paragraphs of the standard require that:  
23

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

32  
33 (4) If the applicant relies on a permit or approval issue to a third party and  
34 the third party does not have the necessary permit or approval at the time  
35 the Council issues the site certificate, the Council may issue the site  
36 certificate subject to the condition that the certificate holder may not  
37 commence construction or operation as appropriate until the third-party  
38 has obtained the necessary permit or approval and the applicant has a  
39 contract or other arrangement for access to the resource or service secured  
40 by that permit or approval.

41  
42 **Discussion.** Section V.B.2 of the site certificate identifies three third-party permits and services  
43 on which the applicant is relying: 1) water supply for the Project from the Port of Morrow; 2) use  
44 of the Port of Morrow’s industrial wastewater disposal system to dispose of the Project’s process  
45 wastewater; and, 3) use of the City of Boardman’s sewage treatment system to dispose of the

1 Project's sanitary wastewater. The Council did not identified any additional third party permit  
2 that would be required if the Council grants a two-year extension.  
3

4 In Section VI.C.1.b. of the Final Order granting a site certificate to PGE, dated September 14,  
5 1994, the Council concluded that the Port of Morrow and the City of Boardman had obtained the  
6 necessary state permits to provide water supply and sanitary wastewater disposal for both phases  
7 of the CSCP and that PGE had agreements with the Port and the City for the provision of these  
8 services to PGE.  
9

10 However, in regard to the disposal of the Project's process wastewater, the Council concluded  
11 that PGE had an agreement with the Port of Morrow, but the Council could not conclude that the  
12 Port had a reasonable likelihood of obtaining the necessary permit to accept and dispose of the  
13 Project's process wastewater. The Council therefore, required PGE to demonstrate that the Port  
14 had obtained the necessary approval from the Oregon Department of Environmental Quality  
15 (DEQ) within six months of the date of the site certificate or commit to construct and operate an  
16 on-site, zero-discharge water treatment system. The Port of Morrow obtained the required DEQ  
17 approval within the six-month period and PGE did not install a zero-discharge system.  
18

19 The Port of Morrow in a letter dated April 14, 2000, indicates that it has adequate water and  
20 discharge capacity for both phases, that this will not change if the Council grants a two year  
21 extension, and that the Port supports the extension. Likewise, the City of Boardman, in a letter  
22 dated April 14, 2000, indicates that it has the ability and willingness to serve the water supply  
23 and domestic wastewater disposal needs of the CSCP, including phase two, and that the City  
24 supports the construction and operation of phase two.  
25

26 **Conclusion.** The Council finds that PGE meets the requirements of OAR 345-022-0010(3) and  
27 (4) for third-party services and permits.  
28

29 **E.2.3. Financial Assurance Standard, OAR 345-022-0050**

30 The financial assurance standard, OAR 345-022-0050 states:  
31

32 To issue a site certificate, the Council must find that the applicant has a  
33 reasonable likelihood of obtaining a bond or comparable security, satisfactory to  
34 the Council, in an amount adequate to restore the site to a useful, non-hazardous  
35 condition if the certificate holder either begins but does not complete construction  
36 of the facility or permanently closes the facility before establishing the financial  
37 mechanism or instrument described in OAR 345-027-0020(9).  
38

39 Further, Council rules, OAR 345-027-0020 (February 2000), require the following mandatory  
40 conditions:  
41

42 The Council shall impose the following conditions in every site certificate. The  
43 Council may impose additional conditions.  
44 /  
45 /

1 \*\*\*

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

11  
12 (9) Before beginning operation of the facility, the certificate holder shall establish  
13 a financial mechanism or instrument, satisfactory to the Council, assuring the  
14 availability of adequate funds throughout the life of the facility to retire the  
15 facility and restore the site to a useful, non-hazardous condition as described in  
16 OAR 345-022-0130. The certificate holder shall retire the facility according to an  
17 approved final retirement plan, as described in OAR 345-027-0110.

18  
19 The Council must apply these rules to phase two for the extension of the construction deadline,  
20 pursuant to OAR 345-027-0070(9).

21  
22 **Discussion.** The site certificate does not meet the current financial assurance standard or the  
23 mandatory conditions that implement the standard. When the Council granted the site certificate  
24 in 1994, the financial assurance standard, OAR 345-22-050, required:

- 25  
26 (1) The applicant, together with all co-owners, collectively shall possess or have  
27 reasonable assurance of obtaining, the funds necessary to cover the estimated  
28 construction, operating and retirement costs for the design lifetime of the  
29 facility including related fuel-cycle costs; and  
30  
31 (2) An applicant and co-owners of the facility collectively will be capable of  
32 providing funds as needed to construct, operate, and retire the facility without  
33 violating their respective bond indenture provisions, articles of incorporation,  
34 common stock covenants, or similar agreements.  
35

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

42 /  
43 /  
44 /  
45 /

1 III. WARRANTIES

2 ORS 469.401(3) requires that:

3  
4 The site certificate shall contain the warranties of the applicant as to the ability  
5 of the applicant to comply with standards of financial ability and to construct  
6 and operate the energy facility, the applicant's provisions for protection of the  
7 public health and safety and for time of completion of construction.  
8

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

- 12  
13 (1) Applicant represents and warrants that it has the present capabilities and resources  
14 to construct, operate and retire the CSCP, including the ability to finance and pay  
15 for the CSCP, substantially as described in the Site Certificate and in the order  
16 approving the Site Certificate, as they may be amended from time to time, and  
17 with the terms and conditions of the Site Certificate.

18 \*\*\*

19 In 1995, the Oregon Legislative Assembly passed SB 951, which removed warranties from ORS  
20 469.401(3). Site certificates the Council has granted since that time no longer rely on warranties  
21 to demonstrate the site holder's financial ability to construct, operate or retire a facility. Instead  
22 they rely on conditions in the site certificate.  
23

24 OAR 345-022-0050 requires that the Council determine that the applicant has a reasonable  
25 likelihood of obtaining a bond or comparable security *before the Council grants a site certificate*.  
26 OAR 345-027-0020(8) requires that the certificate holder submit the bond or comparable  
27 security to the Council *prior to beginning construction*. OAR 345-027-0020(9) requires that the  
28 certificate holder establish and fully fund a financial mechanism or instrument *prior to beginning*  
29 *operation*.  
30

31 The warranty in the current site certificate does not give the Council direct access to the funds  
32 from a third party. The Council must go to the site certificate holder. However, one reason the  
33 Council would have to rely on the warranty would be the inability or reluctance of the site  
34 certificate holder to restore the site adequately.  
35

36 Unlike the warranty now in the site certificate, the Council could call upon a bond, or  
37 comparable security, such as a letter of credit maintained for the specific purpose of site  
38 restoration, regardless of the site certificate holder's financial condition.  
39

40 Moreover, without the ability of the Council to assure compliance with the warranty, the site  
41 certificate fails to provide assurance that the site will be restored without expense to the State of  
42 Oregon. Therefore, a warranty does not meet the current requirement of OAR 345-027-0020(9)  
43 that the site certificate holder "establish a financial mechanism or instrument, satisfactory to the  
44 Council, assuring the availability of adequate funds throughout the life of the facility to retire the  
45 facility and restore the site to a useful, non-hazardous condition..."  
46 /

1 The inability, or greater difficulty, of the Council to assure compliance with the requirements for  
2 a site certificate holder to perform on the warranty demonstrates that it is not comparable to a  
3 bond or letter of credit. Therefore, the Council must require a bond or comparable security for  
4 phase two in order to find compliance with OAR 345-022-0050 and OAR 345-027-0020(8) and  
5 (9).

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

10  
11 PGE in supplemental information provided to the Office on April 19, 2000, states that as of  
12 December 31, 1999, the book value of PGE's common stock equity was approximately \$1  
13 billion. Due to regulatory requirements, PGE must maintain a 48% equity ratio. The percentage  
14 breakdown of PGE's total capitalization was debt, 48%; preferred stock, 1.5%; and common  
15 equity, 50.5%. In 1999, PGE had committed lines of credit totaling \$300 million. Although  
16 \$200 million of this expires in July 2000, and the remaining \$100 million expires in August  
17 2000, PGE is currently soliciting bids from several banks to renew these revolving credit  
18 facilities and expects to have a \$250 million revolving line of credit in place before they expire.  
19 PGE states that it is likely that \$150 million of that credit will be for a three-year term, while the  
20 remainder will be on a 364-day term. However, PGE states that it expects to have sold the  
21 development rights to phase two prior to the expiration of the existing lines of credit. As part of  
22 that transfer, PGE's financial assurance will have been replaced by that of the prospective  
23 purchaser of CS2.

24  
25 PGE's senior unsecured debt is rated "AA-" by Duff & Phelp's, "A2" by Moody's, and "A" by  
26 Standard & Poor's. All three of these services have placed PGE's rating on watch due to  
27 potential effects of PGE's impending sale to Sierra Pacific Resources; however, PGE states that  
28 its credit rating has historically remained strong, and as a regulated utility, PGE expects its rating  
29 to remain strong despite the sale to Sierra Pacific. The following is a summary of PGE's  
30 historical bond rating:

31  
32 Duff & Phelp's: August 1999: AA-  
33  
34 Moody's: June 1996 – current: A2  
35 May 1995 – June 1996: A3  
36 Sep. 1992 – May 1995: BAA1  
37  
38 Standard & Poor's: 3/18/96 – current: A  
39 10/22/91 – 3/18/96: A-  
40

41 PGE provided a copy of its 1999 Form 10-K as Exhibit D in its supplemental information.  
42 Based on the information contained therein and summarized above, the Council finds that PGE  
43 has a reasonable likelihood of obtaining a bond or comparable security adequate to restore the  
44 site to a useful, non-hazardous condition.  
45 /

1 As discussed above, the site certificate does not contain conditions that meet the requirements of  
2 OAR 345-022-0050 and OAR 345-027-0020(8) and (9). The Office, in its proposed order,  
3 recommended two conditions to address this issue. The first of these conditions used an index to  
4 maintain the buying power of the funds set aside for facility retirement and site restoration.  
5 However, the Council finds that the index proposed by the Office is not the appropriate index to  
6 maintain real value of dollars relative to the changes in the economy that may affect the future  
7 costs of retiring the facility. The Northwest Environmental Advocates and Renewables  
8 Northwest Project, in their joint comments on the proposed order, pointed out that the index the  
9 Office proposed using to maintain the buying power of funds has been falling, while inflation in  
10 the economy as a whole has been increasing. In particular, they pointed out that computer  
11 equipment and software dominate the proposed index. Such an index is not relevant to  
12 retirement costs.

13  
14 The purpose of OAR 345-027-0020(8) and (9) and the conditions the Office proposed is to  
15 ensure that sufficient money will be available at the end of the facility's useful life to properly  
16 retire the facility and restore the site. The anticipated useful life of the CSCP is at least 30 years.  
17 Using an inappropriate index that has and may continue to decrease over some or all of that  
18 period would likely result in insufficient funds at the time of retirement. This is clearly not the  
19 intention of the financial assurance standard, OAR 345-022-0050, the mandatory conditions  
20 relating to retirement in OAR Chapter 345, Division 27, or the conditions the Office  
21 recommended in its proposed order. For the reasons stated by the Council in Section B.2.6, the  
22 Council will use the "US Gross Domestic Product Implicit Price Deflator" rather than the "US  
23 Gross Domestic Product Deflator for Total Non-Residential Fixed Investment" in Mandatory  
24 Condition (15) below.

25  
26 IV. MANDATORY CONDITIONS

27 \*\*\*

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

34  
35 (a) The terms of the bond, letter of credit or fully-funded escrow account and  
36 identity of the issuer shall be subject to approval by the Council, which  
37 approval shall not be unreasonably withheld. The bond, letter of credit or  
38 fully-funded escrow account shall not be subject to revocation or reduction  
39 prior to the time the certificate holder has established the financial mechanism  
40 or instrument described in Mandatory Condition IV.(16) and has fully funded  
41 the obligation.

42  
43 (b) The calculation of 1993 dollars shall be made using the US Gross  
44 Domestic Product Implicit Price Deflator ~~for Total Non-Residential Fixed~~  
45 ~~Investment~~, as published by the US Department of Commerce, Bureau of  
46 Economic Analysis, or any successor agency ("the index"). The amount of

1                   the bond, letter of credit or fully-funded escrow account shall increase  
2                   annually by the percentage increase in the index and shall be pro-rated within  
3                   the year to the date of retirement. If at any time the index is no longer  
4                   published, the Council shall select a comparable calculation of 1993 dollars.  
5                   [Amendment 5]  
6

7                   (16) Before beginning operation of phase two of the facility, the certificate holder  
8                   shall establish a bond, letter of credit or fully-funded escrow account, satisfactory  
9                   to the Council, assuring the availability of adequate funds throughout the life of  
10                   phase two of the facility to retire phase two of the facility and restore the site to a  
11                   useful, non-hazardous condition as described in OAR 345-022-0130. The  
12                   certificate holder shall retire the facility according to an approved final retirement  
13                   plan, as described in OAR 345-027-0110. [Amendment 5]  
14

15 PGE, in its supplemented request, states that it understands and acknowledges that the granting  
16 of a two-year extension of the construction completion deadline for CSCP phase two will result  
17 in the application of these recently adopted financial assurance requirements to phase two. PGE  
18 agrees that it will provide the financial assurance instruments required by OAR 345-027-0020(8)  
19 and (9) in the amount specified in the amended site certificate and in a form acceptable to the  
20 Council.  
21

22 **Conclusion.** The Council finds that PGE meets the requirements of OAR 345-022-0050  
23 regarding financial assurance. The Council finds that proposed Condition IV(15), as modified,  
24 and Condition IV(16) are necessary for the site certificate holder to comply with the  
25 requirements of OAR 345-022-0050 and OAR 345-027-0020(8) and (9), and the Council,  
26 therefore, adopts the proposed conditions.  
27

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

29 The Council has amended the structural standard since it granted the site certificate for the CSCP  
30 and since it approved amendment #4. The current standard requires the Council to find:  
31

32 (1) The applicant, through appropriate site-specific study, has adequately  
33 characterized the site as to seismic zone and expected ground motion and ground  
34 failure, taking into account amplification, during the maximum credible and  
35 maximum probable seismic events; and  
36

37 (2) The applicant can design, engineer, and construct the facility to avoid dangers  
38 to human safety presented by seismic hazards affecting the site that are expected  
39 to result from all maximum probable seismic events. As used in this rule "seismic  
40 hazard" includes ground shaking, landslide, liquefaction, lateral spreading,  
41 tsunami inundation, fault displacement, and subsidence;  
42

43 (3) The applicant, through appropriate site-specific study, has adequately  
44 characterized the potential geological and soils hazards of the site and its vicinity  
45 that could, in the absence of a seismic event, adversely affect, or be aggravated  
46 by, the construction and operation of the proposed facility; and

1 (4) The applicant can design, engineer and construct the facility to avoid dangers  
2 to human safety presented by the hazards identified in section (3).  
3

4 **Discussion.** Several studies were undertaken during the design CSCP phase one to determine  
5 the seismicity and foundation/structural issues present at the site. In its supplemental  
6 information, PGE states that it has reviewed these reports and determined that the information  
7 and conclusions they contain remain valid for the region and the site. No new faults have been  
8 identified since the reports were authored, and no other geotechnical or structural issues have  
9 been identified at the site. Each of the four components of OAR 345-022-0020 is addressed  
10 more specifically below.  
11

12 OAR 345-022-0020(1): A site-specific Seismic Hazards Evaluation was performed for the  
13 Coyote Springs site in June 1993 and updated in January 1994 by Ebasco Infrastructure. Ebasco  
14 researched capable faults in the region, as well as a random crustal event, (as dictated by good  
15 seismological practice) and determined the controlling maximum credible earthquake (MCE) for  
16 the region. This evaluation estimated the mean peak horizontal ground acceleration to be 0.13 to  
17 0.16g at the Coyote Springs site. A mean peak ground acceleration of 0.14g was selected to  
18 represent the MCE. The 84<sup>th</sup> percentile (one standard deviation) peak ground acceleration value  
19 for the MCE is 0.26g. The design recommendation for CSCP phase one was to adhere to the  
20 1991 Uniform Building Code (UBC) (as amended by the State of Oregon) seismic requirements  
21 with a Z factor of 0.2 (Zone 2B) and a soil factor of 1.3 for an effective ground acceleration of  
22 0.26. The most current version of the UBC will be used for the seismic design and construction  
23 of CSCP phase two. The recommended Z value has not changed since phase one was designed  
24 and no other capable faults have been identified since the 1994 study. The Oregon Department  
25 of Geology and Mineral Industries (DOGAMI) in 1994 reviewed the Ebasco Seismic Hazards  
26 Evaluation. DOGAMI issued a letter on September 12, 1994, to the Oregon Department of  
27 Energy stating that PGE and its consultants had properly evaluated the seismic risk of the Coyote  
28 Springs site.  
29

30 OAR 345-022-0020(2): The Coyote Springs site is a fairly flat site with no features that are  
31 considered to be susceptible to landslides. The site was evaluated for liquefaction issues in 1994  
32 and this evaluation was documented in the Ebasco Infrastructure report entitled "Site  
33 Densification Report for Coyote Springs Power Project, Boardman, OR," dated June 1994. Site  
34 mitigation (compaction) for liquefaction was performed over the entire site prior to construction  
35 of phase one. The area on which phase two will be constructed was included in the mitigation  
36 area. No additional liquefaction issues have been identified. The geology of the site is not  
37 susceptible to lateral spreading during a seismic event and for this reason no formal evaluations  
38 have been conducted. Tsunami inundation is not considered to be feasible as the site is located  
39 over 200 miles inland and over 270 feet above sea level; therefore, no formal evaluations have  
40 been conducted. The Ebasco Seismic Hazards Evaluation identified no faults in the immediate  
41 vicinity of the Coyote Springs site, and fault displacement is not considered to be an issue.  
42 Finally, the site is located on deposits of dense gravels, which are not susceptible to subsidence  
43 during a seismic event. All potentially liquefiable material was compacted prior to the  
44 construction of phase one and critical plant components are on pile foundations penetrating the  
45 dense gravels. For these reasons, subsidence is not considered to be an issue at the Coyote  
46 Springs site.

1 OAR 345-022-0020(3) and (4): PGE has had experts in their fields perform foundation  
2 investigations, seismic hazards evaluations, and liquefaction studies for the Coyote Springs site  
3 to identify geological and soil hazards at the site. Aside from the liquefaction issue, for which  
4 mitigation was performed prior to construction of phase one, no other site-specific hazards have  
5 been identified, particularly in the absence of a seismic event. PGE states that phase two can be  
6 designed, engineered, and constructed to avoid such safety risks to personnel. This conclusion is  
7 buttressed by the successful development and record of CSCP phase one.

8  
9 The Council's rules at OAR 345-027-0020(12) contain a mandatory condition that states:

10  
11 (12) The certificate holder shall design, engineer and construct the facility  
12 to avoid dangers to human safety presented by seismic hazards affecting  
13 the site that are expected to result from all maximum probable seismic  
14 events. As used in this rule "seismic hazard" includes ground shaking,  
15 landslide, liquefaction, lateral spreading, tsunami inundation, fault  
16 displacement, and subsidence.

17  
18 The Council adopted this rule after it issued the original CSCP site certificate in 1994, and the  
19 Amended Site Certificate does not contain this condition. As required by OAR 345-027-  
20 0070(9), the Office recommended that the Council add this mandatory condition to the site  
21 certificate as Mandatory Condition (17) as part of the extension.

22  
23 (17) The certificate holder shall design, engineer and construct the facility  
24 to avoid dangers to human safety presented by seismic hazards affecting  
25 the site that are expected to result from all maximum probable seismic  
26 events. As used in this rule "seismic hazard" includes ground shaking,  
27 landslide, liquefaction, lateral spreading, tsunami inundation, fault  
28 displacement, and subsidence. [Amendment 5]

29  
30 **Conclusion.** The Council finds that the CSCP meets the structural standard, OAR 345-022-  
31 0020. The Council further finds that proposed Mandatory Condition (17) is necessary for the  
32 certificate holder to comply with OAR 345-027-0020(12) and OAR 345-027-0070(9), and the  
33 Council, therefore, adopts the proposed condition.

34  
35 **E.2.5. Land Use Standard, OAR 345-022-0030(2)(a)**

36 Section (1) of the land use standard requires that the facility be in compliance with "the statewide  
37 planning goal adopted by the Land Conservation and Development Commission." OAR 345-  
38 022-0030(1). The standard contains the following method of compliance, which PGE relied on  
39 in its site certificate application:

40  
41 (2) The Council shall find that a proposed facility complies with section (1) if:  
42 (a) The applicant elects to obtain local land use approvals under  
43 ORS 469.504(1)(a) and the Council finds that the facility has  
44 received local land use approval under the acknowledged  
45 comprehensive plan and land use regulations of the affected local  
46 government; \*\*\*

1 **Discussion.** PGE has obtained local land use approval as required by OAR 345-022-0030 during  
2 the original certification proceeding. Since that time the City of Boardman has annexed the site  
3 of the CSCP and approved a local ordinance making “power generating and utility facilities” an  
4 outright permitted use at the site. A two year extension of the construction completion deadline  
5 for phase two will not change the City’s approval. Moreover, the City in a letter dated April 14,  
6 2000, to PGE, expressed its support for granting the extension of time to complete construction.  
7

8 **Conclusion.** The Council finds that the CSCP meets the land use standard, OAR 345-022-0030.  
9

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

11 The soil protection standard requires the Council to find “that the design, construction and  
12 operation of the facility, taking into account mitigation, is not likely to result in a significant  
13 adverse impact to soils including, but not limited to, erosion and chemical factors such as salt  
14 deposition from cooling towers, land application of liquid effluent, and chemical spills.”  
15

16 **Discussion.** The proposed extension would have no effect on the way PGE designs, constructs  
17 or operates the facility with respect to the soils standard. However, the Council amended and  
18 renumbered its soil protection standard in November 1994 and amended it again in January  
19 2000. At the time the original order for the CSCP was issued, the standard required that the  
20 facility be “designed, constructed, operated, and retired so as to avoid, to the greatest extent  
21 possible, adverse impacts on soils such as compaction, erosion, mass wasting and slumping.”  
22 The standard did not include considerations of impacts from chemical factors such as salt  
23 deposition from cooling towers, land application of liquid effluent, and chemical spills.  
24

25 Construction of CSCP phase two will take place on an established industrial site, which has been  
26 graveled and fenced as part of the initial construction of CSCP phase one. This should eliminate  
27 concerns about soil erosion. There are no soils to be impacted on the site itself and no expansion  
28 of the site is planned.  
29

30 The salt drift from the plant’s cooling towers will fall primarily onto the graveled site or onto a  
31 road or railroad adjacent to the site. Nearby Messner Pond has been monitored for 6 years for  
32 possible impacts from cooling tower drift, and no effect on water quality or the riparian habitat  
33 on the western shore, adjacent to CSCP phase one, have been detected. Coyote Springs is  
34 surrounded by industrial-zoned land. PGE, in its supplemental information, provided a zoning  
35 map of the site area. The nearest land zoned for exclusive farm use (EFU) is located on the  
36 opposite side of Interstate 84, which is approximately 2,000 feet from the south property line of  
37 the CSCP. At this distance the amount of salt drift from the plant will be negligible and would  
38 not result in a significant adverse impact to soils.  
39

40 Process wastewater from the CSCP is piped to the Port of Morrow for treatment and subsequent  
41 disposal through surface irrigation. The Port of Morrow holds the required DEQ permits  
42 authorizing wastewater disposal by surface irrigation, also known as “land application.” These  
43 permits were obtained following studies that confirmed that the application of the effluent for  
44 irrigation does not represent a risk to the ground water or the soil. PGE states that its January 5,  
45 1994, amendment to its original Application for Site Certificate describes its contractual  
46 relationship with the Port of Morrow, the nature of the wastewater, and the Port of Morrow DEQ

1 permit requirements. PGE provided a copy of that amendment in its supplemental information.  
2 There have been no material changes to that information since that submission. The Office  
3 confirmed that DEQ considers adverse impacts to agricultural soils as part of its decision to  
4 permit the disposal of wastewater by land application and conditions such permits to avoid  
5 significant adverse impacts (tel. comm., Hammond, DEQ, and Meehan, OE, April 14, 2000).  
6

7 Storm water falling on the site is directed to an on-site evaporation pond, which is lined to  
8 prevent the leaching of any contaminants into the gravel and any surrounding soil. The existing  
9 680,000 gallon above ground fuel oil (No. 2 low-sulfur distillate) storage tank is designed with  
10 diked, oil-impermeable secondary containment with foam fire-suppression. The entire diked  
11 containment area is sufficient to contain a catastrophic rupture of a tank causing a release of  
12 100% of tank contents. There are no other potential sources of significant chemical spills that  
13 might cause off-site impacts to soils.  
14

15 **Conclusion.** The Council finds that the CSCP meets the soil protection standard, OAR 345-022-  
16 0022.  
17

#### 18 **E.2.7. Protected Areas Standard, OAR 345-022-0040**

19 The protected areas standard prohibits the siting of a facility in any of the listed protected areas.  
20 OAR 345-022-0040(1). The standard permits the siting of a facility outside the listed protected  
21 areas so long as the Council finds, "taking into account mitigation, the design, construction and  
22 operation of the proposed facility...is not likely to result in significant adverse impact" to any of  
23 the listed protected areas.  
24

25 **Discussion.** The site of the facility is not in any protected area. In its Final Order approving the  
26 site certificate, the Council found that the facility would have no significant adverse impact on  
27 any protected area. This finding anticipated both phases of the CSCP project. The proposed  
28 extension of time for completing construction has no effect on the factual basis for the Council's  
29 decision, in the Final Order, that the protected areas standard was met.  
30

31 **Conclusion.** The Council finds that the CSCP meets the protected areas standard, OAR 345-  
32 022-0040.  
33

#### 34 **E.2.8. Fish and Wildlife Habitat Standard, OAR 345-022-0060**

35 The fish and wildlife habitat standard requires that the Council find that "the design,  
36 construction, operation and retirement of the facility, taking into account mitigation, is consistent  
37 with the fish and wildlife mitigation goals and standards of OAR 635-415-030." OAR 635-415-  
38 030 describes four categories of habitat in order of their value. The rule then establishes  
39 mitigation goals and corresponding implementation standards for each habitat category.  
40

41 **Discussion.** In the Final Order approving the site certificate, the Council found that the site of  
42 the CSCP is habitat category 4 and that loss of the habitat would not constitute a significant  
43 adverse impact on wildlife. The Council found that construction and operation of the facility  
44 (both phases one and two) could have some adverse effect on wildlife in the surrounding area,  
45 and the site certificate includes conditions to mitigate those possible impacts. The proposed

1 extension of time for completing construction has no effect on the factual basis for the Council's  
2 decision, in the Final Order, that the fish and wildlife habitat standard was met.

3  
4 **Conclusion.** The Council finds that the CSCP meets the fish and wildlife habitat standard, OAR  
5 345-022-0060.

6  
7 **E.2.9. Threatened and Endangered Species, OAR 345-022-0070**

8 The threatened and endangered species standard requires that:

- 9  
10 (1) For plant species that the Oregon Department of Agriculture has listed as  
11 threatened or endangered under ORS 564.105(2), the design, construction,  
12 operation and retirement of the proposed facility, taking into account mitigation:  
13 (a) Is consistent with the protection and conservation program, if any, that  
14 the Oregon Department of Agriculture has adopted under ORS  
15 564.105(3); or  
16 (b) If the Oregon Department of Agriculture has not adopted a protection  
17 and conservation program, is not likely to cause a significant reduction in  
18 the likelihood of survival or recovery of the species; and

- 19  
20 (2) For wildlife species that the Oregon Fish and Wildlife Commission has listed  
21 as threatened or endangered under ORS 496.172(2), the design, construction,  
22 operation and retirement of the proposed facility, taking into account mitigation,  
23 is not likely to cause a significant reduction in the likelihood of survival or  
24 recovery of the species.

25  
26 **Discussion.** The Council amended this standard in March 1999. However, the current rule is  
27 not substantively different from the rule in effect in 1994. In the Final Order approving the site  
28 certificate, the Council concluded that the proposed facility satisfied the threatened and  
29 endangered species standard for plants and animals. The proposed extension of time for  
30 completing construction has no effect on the factual basis for the Council's decision, in the Final  
31 Order, that the standard was met.

32  
33 **Conclusion.** The Council finds that the CSCP meets the threatened and endangered species  
34 standard, OAR 345-022-0070.

35  
36 **E.2.10. Scenic and Aesthetic Standard, OAR 345-022-0080**

37 The scenic and aesthetic standard requires that the Council find that "the design, construction,  
38 operation and retirement of the proposed facility, taking into account mitigation, is not likely to  
39 result in significant adverse impact to scenic and aesthetic values identified as significant or  
40 important in applicable federal land management plans or in local land use plans in the analysis  
41 area."

42  
43 **Discussion.** The Council amended this standard in March 1999. The amendment replaced "in  
44 the vicinity" by "in the analysis area." The Council considered the area within a 30-mile radius  
45 of the site in its original order in 1994. This is a reasonable analysis area. Therefore, the

1 analysis done for the original certification review is sufficient to meet the language of the current  
2 rule.

3  
4 In its amendment request, PGE proposes no change to the design, construction or operation of  
5 the facility that would affect scenic and aesthetic values. The proposed extension of time for  
6 completing construction has no effect on the factual basis for the Council's decision, in the Final  
7 Order, that the scenic and aesthetic standard was met.

8  
9 **Conclusion.** The Council finds that the CSCP meets the scenic and aesthetic values standard,  
10 OAR 345-022-0080.

11  
12 **E.2.11. Historic, Cultural and Archeological Resources Standard, 345-022-0090**

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

16  
17 (1) Historic, cultural or archaeological resources that have been listed on,  
18 or would likely be listed on the National Register of Historic Places;

19  
20 (2) For a facility on private land, archaeological objects, as defined in  
21 ORS 358.905(1)(a), or archaeological sites, as defined in ORS  
22 358.905(1)(c); and,

23  
24 (3) For a facility on public land, archaeological sites, as defined in ORS  
25 358.905(1)(c).

26  
27 **Discussion.** The Council amended this standard in November 1999. The amended rule  
28 requires the Council to apply the standard to resources that are listed on or would likely be listed  
29 on the National Register of Historic Places, whereas the previous standard applied to listed sites  
30 or sites determined eligible for listing by the State Historic Preservation Office. The amended  
31 rule also changes the required finding for issuance of a site certificate from "will not result in  
32 significant adverse impacts..." to "is not likely to result in significant adverse impacts." The  
33 amended rule also adds subsections (2) and (3) regarding archaeological sites and archaeological  
34 objects.

35  
36 Literature and site surveys for historic, cultural and archaeological resources were conducted as  
37 part of the original certification. Thus, the resources addressed in the current rules were  
38 considered during the original certification review. The surveys did not identify any significant  
39 historic, cultural or archaeological resources on the site. In the Final Order approving the site  
40 certificate, the Council concluded that the construction, operation and retirement of the facility  
41 would not result in a significant adverse impact to historic, cultural or archaeological resources.  
42 The site certificate includes conditions protecting any artifacts and historic, cultural or  
43 archaeological resources that are discovered during construction. The proposed extension of  
44 time for completing construction affects only land that was studied during the original  
45 certification review. Thus, the extension would not change the Council's decision, in the Final  
46 Order, that the historic, cultural and archaeological standard was met.

1 **Conclusion.** The Council finds that CSCP meets the historic, cultural, and archeological  
2 resources standard, OAR 345-022-0090.

3  
4 **E.2.12. Recreation Standard, OAR 345-022-0100**

5 The recreation standard requires that the Council find that "design, construction and operation of  
6 a facility, taking into account mitigation, is not likely to result in a significant adverse impact to  
7 important recreational opportunities in the analysis area. The Council shall consider the  
8 following factors in judging the importance of a recreational opportunity:

- 9 (1) Any special designation or management of the location;  
10 (2) The degree of demand;  
11 (3) Outstanding or unusual qualities;  
12 (4) Availability or rareness;  
13 (5) Irreplaceability or irretrievability of the opportunity."  
14

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

21  
22 **Conclusion.** The Council finds that the CSCP meets the recreation standard, OAR-345-022-  
23 0100.

24  
25 **E.2.13. Socio-Economic Impacts Standard, OAR 345-022-0110**

26 The socio-economic impacts standard requires the Council to find "that the construction and  
27 operation of the facility, taking into account mitigation, is not likely to result in significant  
28 adverse impact to the ability of communities within the analysis area to provide the following  
29 governmental services: sewers and sewage treatment, water, storm water drainage, solid waste  
30 management, housing, traffic safety, police and fire protection, health care and schools."  
31

32 **Discussion.** The socio-economic impact standard in effect at the time the Council approved the  
33 CSCP did not include "traffic safety." However, the Council, in its Final Order approving the  
34 site certificate, considered traffic safety (Final Order, section VI.E.7.h. on page 69). The  
35 Council, in its Final Order, concluded that, subject to mitigation conditions, construction and  
36 operation of the CSCP would not result in significant adverse impacts to the governmental  
37 services listed in the standard as currently written. The Council's findings anticipated both  
38 phases of the project. PGE, in its supplemental information, states that it is likely that the  
39 construction work force required to build phase two will be smaller than that required to build  
40 phase one. The site has already been prepared and phase two construction will not be as  
41 extensive as phase one because it will use several buildings and certain facilities that were built  
42 as part of phase one. Furthermore, construction of phase two is scheduled to take place over a  
43 longer period than construction of phase one.  
44 /

1 For these reasons, the proposed extension of time for completing construction does not effect the  
2 factual basis for the Council's decision, in the Final Order, that the socio-economic impacts  
3 standard was met.  
4

5 **Conclusion.** The Council finds that the CSCP meets the socio-economic impacts standard, OAR  
6 345-022-0110.  
7

8 **E.2.14. Waste Minimization Standard, OAR 345-022-0120**

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

11 (1) The applicant's solid waste and wastewater plans are likely to minimize  
12 generation of solid waste and wastewater in the construction, operation, and  
13 retirement of the facility, and when solid waste or wastewater is generated, to  
14 result in recycling and reuse of such wastes;  
15

16 (2) The applicant's plans to manage the accumulation, storage, disposal and  
17 transportation of waste generated by the construction and operation of the facility  
18 are likely to result in minimal adverse impact on surrounding and adjacent areas.  
19

20 **Discussion.** In the Final Order approving the site certificate, the Council concluded that PGE's  
21 commitment to implementing programs to reduce and recycle solid waste was adequate. This  
22 conclusion anticipated both phases of the project. The site certificate includes conditions to  
23 minimize and recycle solid wastes generated during construction and operation. The Council  
24 further concluded that PGE's efforts at wastewater reduction and reuse through the Port of  
25 Morrow's land application disposal system were adequate to satisfy the standard.  
26

27 However, because of concern about water consumption and conservation, the original site  
28 certificate included condition V.D.5.b, which states:  
29

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

36 This condition applies to the proposed extension of the construction completion deadline for  
37 phase two, because it has been more than two years since September 16, 1994, the date the site  
38 certificate was executed.  
39

40 **Conclusion.** The Council finds that the CSCP meets the waste minimization standard, OAR  
41 345-022-0120.  
42

43 **E.2.15. Retirement Standard, OAR 345-022-0130**

44 The retirement standard requires the Council to find that "the site, taking into account mitigation,  
45 can be restored adequately to a useful, non-hazardous condition following facility retirement."  
46 /

1 **Discussion.** The Council amended the Retirement Standard in November 1995, to require that a  
2 site can be restored to a “non-hazardous” as well as a useful condition. In the Final Order  
3 approving the site certificate, the Council concluded that the site of the CSCP can be restored to  
4 a useful condition. The requested extension does not change the factual basis for this decision.  
5 However, the current standard requires that the site be restored to a “useful, non-hazardous”  
6 condition. The Amended Site Certificate contains conditions to reduce the likelihood of  
7 chemical spills that could result in hazardous contamination of the site. The requested extension  
8 does not change these conditions.  
9

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

15  
16 The certificate holder shall prevent the development of any conditions on  
17 the site that would preclude restoration of the site to a useful, non-  
18 hazardous condition to the extent that prevention of such site conditions is  
19 within the control of the certificate holder.  
20

21 As required by OAR 345-027-0070(9), the Office recommended that Condition (10) in Section  
22 IV of the Amended Site Certificate be amended as follows to reflect the Council’s current rule at  
23 OAR 345-027-0020(7):  
24

25 (10) ~~Applicant~~ The certificate holder shall prevent the development of  
26 any conditions from developing on the site that would preclude restoring  
27 restoration of the site to a useful, non-hazardous condition to the extent  
28 that prevention of such site conditions is within the control of the  
29 certificate holder. [Amendment 5]  
30

31 In its amendment request, PGE notes that the original dollar estimate for retirement of the facility  
32 (\$5,000,000 in 1993 dollars) anticipated the cost of completing both phases as approved in the  
33 site certificate. Because the estimated retirement cost is indexed to 1993 dollars, the proposed  
34 extension of time for completing construction of phase two does not effect the estimated cost.  
35

36 **Conclusion.** The Council finds that the CSCP meets the retirement standard, OAR 345-022-  
37 0130. The Council further finds that proposed Mandatory Condition (10) is necessary for the  
38 certificate holder to comply with OAR 345-027-0020(7) and OAR 345-027-0070(9), and the  
39 Council, therefore, adopts the proposed condition.  
40

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

42 PGE’s request for amendment noted that phase two must comply with the current carbon dioxide  
43 emissions standard for base load gas plants and requested the application of the power  
44 augmentation option (“hybrid”) rule provisions of OAR 345-024-0550, *et seq.* In order to fulfill  
45 the requirements of OAR 345-027-0030 and OAR 345-027-0070, the Office proposed the  
46 following additional amendments to the site certificate.

1 **E.3.1. Carbon Dioxide Standard for Phase Two Base Load Gas Plant**

2 OAR 345-027-0030(5) requires that the site certificate holder requesting an extension of the  
 3 deadline for beginning or completing construction demonstrate compliance with the carbon  
 4 dioxide (CO<sub>2</sub>) standard in effect at the time of the Council's order on the amendment. Phase two  
 5 is a base load gas plant; therefore, the site certificate holder must demonstrate compliance with  
 6 OAR 345-024-0550 through OAR 345-024-0720.

7  
 8 The CO<sub>2</sub> standard for base load gas plants is 0.675 lbs. CO<sub>2</sub>/kWh of net electric power output,  
 9 measured on a new and clean basis (OAR 345-024-0550). Condition V.A.3 demonstrates  
 10 compliance with the former standard of 0.7 lbs. CO<sub>2</sub>/kWh. The Council must amend Condition  
 11 V.A.3 to bring the site certificate into compliance with the current standard.

12  
 13 In its request, PGE has identified the likely capacity of the phase two base load plant as 260  
 14 megawatts. From the information about the operation of the base load plant with power  
 15 augmentation, the Council infers that the heat rate for base load operation is likely to be about  
 16 6,900 Btu/kWh (HHV). Given those two assumptions, the Council demonstrates in Table 1 how  
 17 phase two would comply with OAR 345-024-0550, *et seq.*, using the monetary path. The  
 18 numbers in Table 1 are representative of the likely plant. Condition V.A.3(4) requires the site  
 19 certificate holder to use the contracted design parameters of phase two that it reports pursuant to  
 20 Condition V.A.3(5) to determine actual monetary path payment requirements.  
 21

**Table 1. Coyote Springs, Phase Two, Representative Base Load Gas Plant**

Net Power Output (kW)	260,000
Capacity Factor	100%
Annual Hours of Operation	8,760
Annual Generation (million kWh/yr)	2,278
Deemed Life of Plant (years)	30
Total Plant Output (million kWh for 30 years)	68,328
Heat Rate (Btu/kWh) (HHV)	6,900
CO <sub>2</sub> Emissions Rate (lb. CO <sub>2</sub> /Btu)	0.000117
Total CO <sub>2</sub> Emissions (million lb.)	55,161
Gross CO <sub>2</sub> Emissions rate (lb. CO <sub>2</sub> /kWh)	0.807
CO <sub>2</sub> Standard (lb. CO <sub>2</sub> /kWh)	0.675
Excess CO <sub>2</sub> Emissions (lb. CO <sub>2</sub> /kWh)	0.132
Excess Tons CO <sub>2</sub> (million tons over 30 years)	4.520
Offset Fund Rate (\$/ton CO <sub>2</sub> )	\$ 0.57
Offset Funds Required (\$ million)	\$ 2.576
Contracting and Selection Funds (\$ million)	\$ 0.139
Total Monetary Path Requirement (\$ million)	\$ 2.715

22

1 PGE did not propose specific changes to the conditions to achieve compliance with OAR 345-  
2 027-0030(5). Therefore, the Office recommended that the Council amend Condition V.A.3 as  
3 proposed below to meet the requirements of OAR345-027-0030(5). The recommended changes  
4 apply the 0.675 lbs. CO<sub>2</sub>/kWh standard, pursuant to OAR 345-024-0550 and also streamline the  
5 condition. The Office also recommended that the Council replace the ORS citations with current  
6 OAR citations.

7  
8 The current condition, in V.A.3(4), specifies the arithmetic calculations for determining the  
9 monetary path payment requirement. The Office believed that level of detail in the condition is  
10 not necessary. It proposed replacing the specifics of the calculations with a requirement that the  
11 site certificate holder submit its monetary path payment requirement calculations to the Office of  
12 Energy for the Office's verification. Because the portions of V.A.3(4) that the Office  
13 recommended striking specify the offset emissions rate and the offset funds rate, the Office  
14 recommended moving those elements to V.A.3(4)(a) and V.A.3(1), respectively.

15  
16 As discussed in Section B.2.6, the Northwest Environmental Advocates and Renewables  
17 Northwest Project, in their joint comments on the proposed order, pointed out that the index the  
18 Office proposed using to maintain the buying power of funds the certificate holder provides to  
19 meet the monetary path payment requirement has been falling, while inflation has been  
20 increasing. For the reasons stated by the Council in Section B.2.6, the Council changes the index  
21 from the "US Gross Domestic Product Deflator for Total Non-Residential Fixed Investment" to  
22 the "US Gross Domestic Product Implicit Price Deflator" as shown in condition V.A.3(1)(c)  
23 below.

24  
25 In addition, the phrase "executed by the site certificate holder" in the first sentence of V.A.3(1)  
26 and V.A.4(1) is unnecessary and confusing since the site certificate holder would not execute a  
27 bond, letter of credit or escrow account. Therefore, the Office has recommended striking this  
28 phrase as shown below. The Council concurs.

29  
30 V. CONDITIONS ISSUED PURSUANT TO EFSC STANDARDS

31 A. \*\*\*

32 3. Carbon Dioxide Emissions Standard for Phase Two: ~~ORS 469.503(2)~~OAR 345-024-  
33 0550 through 0720. [Amendment 5]

- 34 (1) ~~Prior to commencement of construction of phase two on an extended~~  
35 ~~construction completion schedule pursuant to Condition V.A.2(4), the site~~  
36 ~~certificate holder shall submit to the State of Oregon through the Council a~~  
37 ~~bond, letter of credit or fully-funded escrow account ("escrow account")~~  
38 ~~executed by the site certificate holder~~ in the amount of the monetary path  
39 payment requirement (in 1998 dollars) as determined by the calculations set  
40 forth in Condition V.A.3.(4) and based on the estimated heat rate and capacity  
41 certified pursuant to Condition V.A.3.(5) below and as adjusted in accordance  
42 with the terms of this site certificate pursuant to Condition V.A.3(4)(~~db~~). For  
43 the purposes of this site certificate, the "monetary path payment requirement"  
44 means the offset funds determined pursuant to ~~ORS 469.503(2)(e)~~OAR 345-  
45 024-0550 and -0560 and the selection and contracting funds determined  
46 pursuant to ~~ORS 469.503(2)(d)(A)(ii)~~OAR 345-024-0710 that the site certificate

1 holder must disburse to the Oregon Climate Trust, as the qualified organization,  
2 pursuant to ~~ORS 469.403(2)(d)(A)~~OAR 345-024-0710. The offset fund rate for  
3 the monetary path payment requirements shall be \$0.57 per ton of carbon  
4 dioxide (in 1998 dollars). The calculation of 1998 dollars shall be made using  
5 the index set forth below in sub-section (c).  
6

7 (a) In the event that the Council approves a new site certificate holder, the  
8 Council shall approve the bond, letter of credit or escrow account from the new  
9 site certificate holder(s) unless the Council finds that the proposed bond, letter  
10 of credit or escrow account does not provide comparable security to the bond,  
11 letter of credit or escrow account of the current site certificate holder. Such  
12 approval of a new bond, letter of credit or escrow account will not require a site  
13 certificate amendment. The bond, letter of credit or escrow account shall  
14 remain in effect until such time as the site certificate holder has disbursed the  
15 full amount of the monetary path payment requirement to the Oregon Climate  
16 Trust as provided in ~~ORS 469.503(2)(d)(A)~~OAR 345-024-0710.  
17

18 (b) If the site certificate holder has provided a bond, letter of credit or escrow  
19 account prior to commencing construction and if calculations pursuant to  
20 Condition V.A.3(6) demonstrate that the site certificate holder must increase its  
21 monetary path payments, the site certificate holder shall increase the bond, letter  
22 of credit or escrow account sufficiently to meet the adjusted monetary path  
23 payment requirement within the time required by Condition V.A.3(4)(~~eb~~). The  
24 site certificate holder may reduce the amount of the bond, letter of credit or  
25 escrow account commensurate with payments it makes to the Oregon Climate  
26 Trust.  
27

28 (c) The calculation of 1998 dollars shall be made using the US Gross Domestic  
29 Product ~~Implicit Price Deflator for Total Non-Residential Fixed Investment~~, as  
30 published by the US Department of Commerce, Bureau of Economic Analysis,  
31 or any successor agency ("the index"). The amount of the bond, letter of credit  
32 or escrow account shall increase annually by the percentage increase in the  
33 index and shall be pro-rated within the year to the date of disbursement to the  
34 Oregon Climate Trust. If at any time the index is no longer published, the  
35 Council shall select a comparable calculation of 1998 dollars. The bond, letter  
36 of credit or escrow account shall not be subject to revocation prior to  
37 disbursement of the full monetary path payment requirement, including any  
38 adjusted monetary path payment requirement. The terms of the bond, letter of  
39 credit or escrow account and identity of the issuer shall be subject to approval  
40 by the Council, which approval shall not be unreasonably withheld.  
41

42 (d) If the site certificate holder establishes an escrow account for the monetary  
43 path payment requirement, the portion of any interest accruing in the escrow  
44 account up to the time of disbursement to the Oregon Climate Trust that is  
45 equivalent to the 1998 dollar index adjustment (described in sub-section (c))  
46 shall be for the benefit of the Oregon Climate Trust and shall be disbursed to the

1 Oregon Climate Trust for use as specified in ~~ORS 469.503(2)(d)(A)~~OAR 345-  
2 024-0710. Any remaining interest that exceeds the 1998 dollar adjustment at  
3 the time of disbursement of funds to the Oregon Climate Trust shall be  
4 disbursed to the site certificate holder on its request.  
5

6 (2) The site certificate holder shall disburse to the Oregon Climate Trust offset  
7 funds and contracting and selection funds as requested by the Oregon Climate  
8 Trust up to the monetary path payment requirement as determined by the  
9 calculations set forth in Condition V.A.3(4) and based on the estimated heat  
10 rate and capacity certified pursuant to Condition V.A.3(5) below (in 1998  
11 dollars) and as adjusted in accordance with the terms of this site certificate  
12 pursuant to Condition V.A.3(4)~~(d)~~(b). Disbursements shall be made in response  
13 to requests from the Oregon Climate Trust in accordance with the requirements  
14 of ~~ORS 469.503(2)(d)(A)~~OAR 345-024-0710.  
15

16 (3) Notwithstanding anything in this amended site certificate to the contrary, the  
17 site certificate holder shall have no obligation with regard to offsets, the offset  
18 funds and the selection and contracting funds other than to make available to the  
19 Oregon Climate Trust the total amount required under this site certificate, nor  
20 shall any nonperformance, negligence or misconduct on the part of the Oregon  
21 Climate Trust be a basis for revocation of this site certificate or any other  
22 enforcement action by the Council with respect to the site certificate holder.  
23

24 (4) The site certificate holder shall submit all monetary path payment requirement  
25 calculations to the Oregon Office of Energy for verification. The site certificate  
26 holder shall use the following methodology to calculate the amount of the  
27 monetary path payment requirement that it must make available to the qualified  
28 organization pursuant to ORS 469.503(2)(d)(A). All calculations shall be made  
29 assuming that no steam is supplied for cogeneration. The site certificate holder  
30 shall use the contracted design parameters for capacity and heat rate for phase  
31 two that it reports pursuant to Condition V.A.3(5) to calculate the estimated  
32 monetary path payment requirement. The site certificate holder shall use the  
33 Year One Capacity and Year One Heat Rate that it reports for phase two  
34 pursuant to Condition V.A.3(6) to calculate whether it owes additional  
35 monetary path payments.  
36

37 (a) The net carbon dioxide emissions rate for phase two as a base load gas plant  
38 shall not exceed 0.675 pounds of carbon dioxide per kilowatt hour of net  
39 electric power output, with carbon dioxide emissions and net electric power  
40 output measured on a new and clean basis. To calculate the offset funds  
41 payment requirement as provided in ORS 469.503(2)(c), the site certificate  
42 holder shall use the following methodology:  
43

44 ~~(A) The site certificate holder shall multiply the nominal power of phase~~  
45 ~~two (kW) while operating on natural gas by 8,760 hours. It shall~~  
46 ~~then multiply that product by 30 years to determine the total net~~

1 plant output (kWh) of phase two. It shall multiply the total net plant  
2 output of phase two by the heat rate (Btu/kWh) while operating on  
3 natural gas and by the carbon dioxide emission factor for natural gas  
4 (0.000117 lb. CO<sub>2</sub>/Btu) to determine the total CO<sub>2</sub> emissions (lb.)  
5 from operating phase two. The site certificate holder shall calculate  
6 the CO<sub>2</sub> emissions rate (lb. CO<sub>2</sub>/kWh) for phase two by dividing the  
7 total CO<sub>2</sub> emissions by the total net plant output for phase two;  
8

9 ~~\_\_\_\_\_ (B) The site certificate holder shall subtract the carbon dioxide standard  
10 of 0.7 lb. CO<sub>2</sub>/kWh from the CO<sub>2</sub> emissions rate for phase two to  
11 determine its excess CO<sub>2</sub> emissions rate (lb. CO<sub>2</sub>/kWh);~~

12 ~~\_\_\_\_\_ (C) The site certificate holder shall multiply the total net plant output  
13 (kWh) for phase two by phase two's excess CO<sub>2</sub> emissions rate (lb.  
14 CO<sub>2</sub>/kWh). It shall then divide that product by 2,000 pounds to  
15 determine the total tons of CO<sub>2</sub> emissions the site certificate holder  
16 must mitigate (tons); then,~~

17 ~~\_\_\_\_\_ (D) The site certificate holder shall multiply the total tons of CO<sub>2</sub>  
18 emissions it must mitigate by \$0.57 per ton of CO<sub>2</sub> to determine the  
19 sub-total for the offset funds.~~

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

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

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

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

38 (B) In no case shall the site certificate holder diminish the bond, letter of  
39 credit or escrow account it provided prior to commencing  
40

1 construction or receive a refund from the qualified organization  
2 based on the calculations made using the Year One Capacity and the  
3 Year One Heat Rate.  
4

- 5 (5) Prior to commencement of construction of phase two ~~on an extended~~  
6 ~~construction completion schedule pursuant to Condition V.A.2(4)~~, the site  
7 certificate holder shall notify the Council in writing of its final selection of a gas  
8 turbine vendor and shall submit written design information to the Council  
9 sufficient to verify phase two's designed new and clean heat rate and its  
10 nominal electric generating capacity at average annual site conditions. The  
11 report shall also include an affidavit or other evidence that the site certificate  
12 holder or a vendor has guaranteed the heat rate.  
13
- 14 (6) Within two months of completion of the first year of commercial operation of  
15 phase two ~~built on an extended construction completion schedule pursuant to~~  
16 ~~Condition V.A.2(4)~~, the site certificate holder shall provide to the Council  
17 ~~pursuant to ORS 469.503(2)(e)(G)~~ a test report (Year One Test) of the actual  
18 heat rate (Year One Heat Rate) and nominal generating capacity (Year One  
19 Capacity) for phase two, without degradation, assuming no steam is supplied for  
20 cogeneration, as determined by a 100-hour test at full power completed during  
21 the first 12 months of commercial operation, with the results adjusted for the  
22 average annual site condition for temperature, barometric pressure and relative  
23 humidity and use of alternative fuels, and using a rate of 117 pounds of carbon  
24 dioxide per million Btu of natural gas fuel pursuant to OAR 345-001-0010(34).  
25
- 26 (7) The combustion turbine for phase two shall be fueled solely with natural gas or  
27 with synthetic gas with a carbon content per million Btu no greater than natural  
28 gas.  
29
- 30 (8) If the site certificate holder operates phase two as a cogeneration facility, the  
31 site certificate holder shall not use steam from phase two to replace steam  
32 generated by a biomass fuel at an off-site industrial facility.  
33

34 **Conclusion.** The Council finds that amending Condition V.A.3, as stated above, meets the  
35 requirements of OAR 345-027-0030(5) and OAR 345-024-0550, *et seq.*  
36

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

38 In its request for an amendment, PGE indicated that it would like to have the option of using duct  
39 burning in phase two. OAR 345-024-0550 allows a site certificate holder flexibility in meeting  
40 the CO<sub>2</sub> standard if the plant employs power augmentation technologies, such as duct burning.  
41 There are two options. First, the site certificate holder can report the full capacity and maximum  
42 heat rate while employing duct burning pursuant to Condition V.A.3(5), in which case the  
43 Council would determine compliance for a base load gas plant through Condition V.A.3.  
44

45 Second, OAR 345-024-0550 allows the site certificate holder the option of treating the plant as if  
46 it were a hybrid plant, composed of a base load element and a non-base load, or power

1 augmentation, element. For the base load plant element, the Council would determine  
 2 compliance with the base load standard, using Condition V.A.3. For the non-base load element,  
 3 which uses duct burning, the Council would apply the non-base load standard, OAR 345-024-  
 4 0590, and determine compliance for that element pursuant with OAR345-024-0600. The rules  
 5 require the site certificate holder to specify a limitation on the annual average number of hours  
 6 that it will operate the plant with power augmentation.

7  
 8 Table 2 demonstrates the application of the hybrid CO<sub>2</sub> standard. First, it demonstrates  
 9 compliance for a 260 MW base load gas plant with a heat rate of 6,900 Btu/hr (HHV), as also  
 10 shown in Table 1. In addition, the table demonstrates compliance for a duct-burning element  
 11 that increases the capacity to 280 MW with a combined heat rate of 7,100 Btu/hr (HHV). For  
 12 demonstration purposes, Table 2 shows duct burning operating on average for 4,400 hours  
 13 annually. (By rule, the site certificate holder can specify no more than 6,600 hours (OAR 345-  
 14 024-0590(4).) The site certificate holder will specify these parameters based on its contract and  
 15 the limitation on operating hours, pursuant to proposed Condition V.A.4(5), when calculating the  
 16 monetary path payment requirements prior to beginning construction.

17  
**Table 2. Coyote Springs, Phase Two with Power Augmentation**

	<b>Base Load</b>	<b>Full Power Augmentation</b>	<b>Limited Power Augmentation</b>
<b>Net Power Output (kW)</b>	260,000	280,000	
<b>Capacity Factor</b>	100%	100%	50%
<b>Annual Hours of Operation</b>	8,760	8,760	4,400
<b>Annual Generation (million kWh/yr.)</b>	2,278	2,453	
<b>Deemed Life of Plant (years)</b>	30	30	
<b>Total Plant Output (million kWh for 30 years)</b>	68,328	73,584	
<b>Heat Rate (Btu/kWh)(HHV)</b>	6,900	7,100	
<b>CO<sub>2</sub> Emissions Rate (lb. CO<sub>2</sub>/Btu)</b>	0.000117	0.000117	
<b>Total CO<sub>2</sub> Emissions (million lb.)</b>	55,161	61,126	
<b>Difference in 30-year Output (million kWh)</b>			5,256
<b>Difference in Total CO<sub>2</sub> Emissions (million lb.)</b>			5,965
<b>Gross CO<sub>2</sub> Emissions rate (lb. CO<sub>2</sub>/kWh)</b>	0.807		1.135
<b>CO<sub>2</sub> Standard (lb. CO<sub>2</sub>/kWh)</b>	0.675		0.700
<b>Excess CO<sub>2</sub> Emissions Rate (lb. CO<sub>2</sub>/kWh)</b>	0.132		0.435
<b>Excess Tons CO<sub>2</sub> (million tons over 30 years)</b>	4.520		1.143
<b>Offset Fund Rate (\$/ton CO<sub>2</sub>)</b>	\$ 0.57		\$ 0.57
<b>Offset Funds Required (\$ million)</b>	\$ 2.576		\$ 0.327
<b>Contracting and Selection Funds (\$ million)</b>	\$ 0.139		\$ 0.014
<b>Monetary Path Requirement (\$ million)</b>	\$ 2.715	+	\$ 0.341
<b>Total Monetary Path Requirement with Power Augmentation (\$ million)</b>			\$ 3.057

18  
 19 Table 2 first calculates the difference between 1) the total plant output (million kWh) of the plant  
 20 operating full time in each mode—at base load and with duct burning (full power

1 augmentation)—and 2) the difference in gross CO<sub>2</sub> emissions (million lb. CO<sub>2</sub>) between each  
2 mode. It then calculates the CO<sub>2</sub> emissions rate for the incremental kWh and applies the non-  
3 base load standard, which is 0.70 lb. CO<sub>2</sub>/kWh. It then calculates the excess CO<sub>2</sub> emissions for  
4 30 years, pro-rated by the limitation on the annual hours of operation provided by the site  
5 certificate holder. Once the excess emissions are calculated in tons, it applies the CO<sub>2</sub> fund  
6 offset rate of \$0.57 per ton, pursuant to OAR 345-024-0600(3). The \$0.57 is indexed to year  
7 2000 dollars, based on the time the Council applies it.

8  
9 Because these emissions are incremental to the base load gas plant, the appropriate contracting  
10 and selection fund rate is 4.286 percent, pursuant to OAR 345-024-0710(4). The calculation for  
11 the base load gas plant contracting and selection funds already accounts for the required \$50,000  
12 payment for the first \$500,000 in offset funds.

13  
14 In order to provide the site certificate holder the option of using duct burning or other power  
15 augmentation technologies for limited duration, the Office, in its proposed order, recommended  
16 the Council adopt proposed Condition V.A.4. The proposed condition gives the site certificate  
17 holder discretion to invoke it. Providing this flexibility in this amendment proceeding is  
18 particularly important because the Council is aware that PGE is negotiating to sell the site  
19 certificate for phase two, subject to Council approval in another proceeding. The proposed  
20 condition gives the current or new site certificate holder the option of taking advantage of the  
21 flexibility in OAR 345-024-0550 regarding hybrid plants without having to return to the Council  
22 for another amendment.

23  
24 As discussed in Section B.2.6, the Northwest Environmental Advocates and Renewables  
25 Northwest Project, in their joint comments on the proposed order, pointed out that the index the  
26 Office proposed using to maintain the buying power of funds the certificate holder provides to  
27 meet the monetary path payment requirement has been falling, while inflation has been  
28 increasing. For the reasons stated by the Council in Section B.2.6, the Council changes the index  
29 from the “US Gross Domestic Product Deflator for Total Non-Residential Fixed Investment” to  
30 the “US Gross Domestic Product Implicit Price Deflator” as shown in condition V.A.4(1)(c)  
31 below.

32  
33 In addition, the phrase “executed by the site certificate holder” in the first sentence of V.A.4(1) is  
34 unnecessary and confusing since the site certificate holder would not execute a bond, letter of  
35 credit or escrow account. Therefore, the Office has recommended striking this phrase as shown  
36 below. The Council concurs.

37  
38 V. CONDITIONS ISSUED PURSUANT TO EFSC STANDARDS

39 A \*\*\*

40 4. Carbon Dioxide Emissions Standard for Phase Two with Power Augmentation or  
41 Enhancement Technologies: OAR 345-024-0550 through -0720. [Amendment 5]

42  
43 This condition shall apply to phase two if the site certificate holder identifies power  
44 enhancement or augmentation technologies that increase the capacity and heat rate of phase  
45 two above the capacity and heat rate that it can achieve as a base load gas plant on a new  
46 and clean basis, as reported pursuant to Condition V.A.3(5). All provisions of this

1 condition shall be in addition to the requirements of Condition V.A.3. If the heat rate and  
2 capacity of the base load gas plant that the site certificate holder reports pursuant to  
3 Condition V.A.3(5) include the design and the base load operation of power augmentation  
4 or enhancement technologies in excess of 6,600 hours annually on average, this condition  
5 shall not apply. The monetary path payment requirements pursuant to Condition V.A.4  
6 shall be supplemental to the monetary path payment requirements pursuant to Condition  
7 V.A.3.

8  
9 (1) Prior to commencement of construction of phase two, the site certificate holder shall  
10 submit to the State of Oregon through the Council a bond, letter of credit or fully-  
11 funded escrow account ("escrow account") ~~executed by the site certificate holder in~~  
12 the amount of the monetary path payment requirement (in 2000 dollars) as  
13 determined by the calculations set forth in Condition V.A.4(4) and based on the  
14 estimated heat rate and capacity certified pursuant to Condition V.A.4(5) below and  
15 as adjusted in accordance with the terms of this site certificate pursuant to Condition  
16 V.A.4(4)(b). When required concurrently, the site certificate holder shall combine  
17 any letter(s) of credit required by Condition V.A.4 with the letter(s) of credit required  
18 by Condition V.A.3. For the purposes of this site certificate, the "monetary path  
19 payment requirement" means the offset funds determined pursuant to OAR 345-024-  
20 0590 and 0600 and the selection and contracting funds determined pursuant to OAR  
21 345-024-0710, as modified by Condition V.A.4(4)(b)(D), that the site certificate  
22 holder must disburse to the Oregon Climate Trust, as the qualified organization,  
23 pursuant to OAR 345-024-0710. The offset fund rate for all monetary path payment  
24 requirements under Condition V.A.4 shall be \$0.57 per ton of carbon dioxide (in 2000  
25 dollars). The calculation of 2000 dollars shall be made using the index set forth  
26 below in sub-section (c).

27  
28 (a) In the event that the Council approves a new site certificate holder, the Council  
29 shall approve the bond, letter of credit or escrow account from the new site certificate  
30 holder(s) unless the Council finds that the proposed bond, letter of credit or escrow  
31 account does not provide comparable security to the bond, letter of credit or escrow  
32 account of the current site certificate holder. Such approval of a new bond, letter of  
33 credit or escrow account will not require a site certificate amendment. The bond,  
34 letter of credit or escrow account shall remain in effect until such time as the site  
35 certificate holder has disbursed the full amount of the monetary path payment  
36 requirement to the Oregon Climate Trust as provided in OAR 345-024-0710.

37  
38 (b) If the site certificate holder has provided a bond, letter of credit or escrow  
39 account prior to commencing construction and if calculations pursuant to Conditions  
40 V.A.4(4)(b) and V.A.4(6) demonstrate that the site certificate holder must increase its  
41 monetary path payments, the site certificate holder shall increase the bond, letter of  
42 credit or escrow account sufficiently to meet the adjusted monetary path payment  
43 requirement within the time required by Condition V.A.4(4)(b). The site certificate  
44 holder may reduce the amount of the bond, letter of credit or escrow account  
45 commensurate with payments it makes to the Oregon Climate Trust.  
46 /

1 (c) The calculation of 2000 dollars shall be made using the US Gross Domestic  
2 Product Implicit Price Deflator for Total Non-Residential Fixed Investment, as  
3 published by the US Department of Commerce, Bureau of Economic Analysis, or any  
4 successor agency ("the index"). The amount of the bond, letter of credit or escrow  
5 account shall increase annually by the percentage increase in the index and shall be  
6 pro-rated within the year to the date of disbursement to the Oregon Climate Trust. If  
7 at any time the index is no longer published, the Council shall select a comparable  
8 calculation of 2000 dollars. The bond, letter of credit or escrow account shall not be  
9 subject to revocation prior to disbursement of the full monetary path payment  
10 requirement, including any adjusted monetary path payment requirement. The terms  
11 of the bond, letter of credit or escrow account and identity of the issuer shall be  
12 subject to approval by the Council, which approval shall not be unreasonably  
13 withheld.

14  
15 (d) If the site certificate holder establishes an escrow account for the monetary path  
16 payment requirement, the portion of any interest accruing in the escrow account up to  
17 the time of disbursement to the Oregon Climate Trust that is equivalent to the 2000  
18 dollar index adjustment (described in sub-section (c)) shall be for the benefit of the  
19 Oregon Climate Trust and shall be disbursed to the Oregon Climate Trust for use as  
20 specified in OAR 345-024-0710. Any remaining interest that exceeds the 2000 dollar  
21 adjustment at the time of disbursement of funds to the Oregon Climate Trust shall be  
22 disbursed to the site certificate holder on its request.

23  
24 (2) The site certificate holder shall disburse to the Oregon Climate Trust offset funds and  
25 contracting and selection funds as requested by the Oregon Climate Trust up to the  
26 monetary path payment requirement as determined by the calculations set forth in  
27 Condition V.A.4(4) and based on the estimated heat rate, capacity, and limitations on  
28 the annual average hours of operation with power augmentation or enhancement  
29 technologies certified pursuant to Condition V.A.4(5) below (in 2000 dollars) and as  
30 adjusted in accordance with the terms of this site certificate pursuant to Condition  
31 V.A.4(4)(b). Disbursements shall be made in response to requests from the Oregon  
32 Climate Trust in accordance with the requirements of OAR 345-024-0710.

33  
34 (3) Notwithstanding anything in this amended site certificate to the contrary, the site  
35 certificate holder shall have no obligation with regard to offsets, the offset funds and  
36 the selection and contracting funds other than to make available to the Oregon  
37 Climate Trust the total amount required under this site certificate, nor shall any  
38 nonperformance, negligence or misconduct on the part of the Oregon Climate Trust  
39 be a basis for revocation of this site certificate or any other enforcement action by the  
40 Council with respect to the site certificate holder.

41  
42 (4) The site certificate holder shall submit all monetary path payment requirement  
43 calculations to the Oregon Office of Energy for verification. All calculations shall be  
44 made assuming that no steam is supplied for cogeneration. The site certificate holder  
45 shall use the contracted design parameters for capacity and heat rate for phase two  
46 that it reports pursuant to Condition V.A.4(5) to calculate the estimated monetary

1 path payment requirement. The site certificate holder shall use the Year One  
2 Capacity and Year One Heat Rate that it reports for phase two pursuant to Condition  
3 V.A.4(6) to calculate whether it owes additional monetary path payments following  
4 the Year One Test and in subsequent five year periods, pursuant to sub-sections  
5 (b)(C) and (b)(D).

6  
7 (a) The net carbon dioxide emissions rate for incremental emissions for phase two  
8 operating with power augmentation or enhancement technologies shall not exceed  
9 0.70 pounds of carbon dioxide per kilowatt hour of net electric power output, with  
10 carbon dioxide emissions and net electric power output measured on a new and clean  
11 basis, as modified by Condition V.A.4(5).

12  
13 (b) When the site certificate holder submits the Year One Test report required in  
14 Condition V.A.4(6), it shall increase its bond, letter of credit or escrow account for  
15 the monetary path payment requirement if the calculation using reported data shows  
16 that the adjusted monetary path payment requirement exceeds the monetary path  
17 payment requirement for which the site certificate holder had provided a bond, letter  
18 of credit or escrow account prior to commencing construction, pursuant to Condition  
19 V.A.4(1).

20  
21 (A) The site certificate holder shall make the appropriate calculations and  
22 increase its bond, letter of credit or escrow account, if necessary, within 30 days  
23 of filing its Year One Test report with the Council.

24  
25 (B) In no case shall the site certificate holder diminish the bond, letter of credit  
26 or escrow account it provided prior to commencing construction or receive a  
27 refund from the qualified organization based on the calculations made using the  
28 Year One Capacity and the Year One Heat Rate or payments required by  
29 calculations pursuant to sub-sections (C) and (D).

30  
31 (C) Each five years after commencing commercial operation of the facility  
32 ("five-year reporting period"), the site certificate holder shall report to the  
33 Office the annual average hours the facility operated with power augmentation  
34 or enhancement technologies during that five-year reporting period, pursuant to  
35 OAR 345-024-0590(6).

36  
37 (D) If the Office of Energy determines that phase two exceeds the projected  
38 incremental net total carbon dioxide emissions calculated pursuant to Condition  
39 V.A.4(4), prorated for five years, during any five-year reporting period  
40 described in sub-section (C), the site certificate holder shall offset excess  
41 emissions for the specific reporting period according to subsection (i) and shall  
42 offset the estimated future excess emissions according to subsection (ii)  
43 pursuant to OAR 345-024-0600(4). The certificate holder shall offset excess  
44 emissions using the monetary path as described in OAR 345-024-0710, except  
45 that contracting and selecting funds shall equal twenty (20) percent of the value  
46 of any offset funds up to the first \$250,000 (in 2000 dollars) and 4.286 percent

1 of the value of any offset funds in excess of \$250,000 (in 2000 dollars). The  
2 site certificate holder shall make the funds available to the Oregon Climate  
3 Trust within 60 days of its notification by the Office of the amount it owes.  
4

5 (i) In determining the excess carbon dioxide emissions that the site  
6 certificate holder must offset for a five-year period, the Office shall apply  
7 OAR 345-024-0600(4)(a). The certificate holder shall pay for the excess  
8 emissions at \$0.57 per ton of CO2 emissions (in 2000 dollars). The Office  
9 shall notify the certificate holder of the amount of payment required, using  
10 the monetary path, to offset them;  
11

12 (ii) The Office shall calculate estimated future excess emissions and  
13 notify the certificate holder of the amount of payment required, using the  
14 monetary path, to offset them. To estimate excess emissions for the  
15 remaining period of the deemed 30-year life of the facility, the Office shall  
16 use the parameters specified in OAR 345-024-0600(4)(b). The certificate  
17 holder shall pay for the estimated excess emissions at \$ 0.57 per ton of  
18 carbon dioxide emissions (in 2000 dollars).  
19

20 (5) Prior to commencement of construction of phase two, the site certificate holder shall  
21 notify the Council in writing of its final selection of a gas turbine vendor and shall  
22 submit written design information to the Council sufficient to verify phase two's  
23 designed new and clean heat rate and its nominal electric generating capacity at  
24 average annual site conditions when operating with power augmentation or  
25 enhancement technologies at full power. The site certificate holder shall also specify  
26 the limit of the annual average hours it will operate the power augmentation or  
27 enhancement technologies. Based on such written design and operational  
28 information, pursuant to OAR 345-0590(1), the Council may approve, upon a request  
29 by the site certificate holder, modified parameters for testing the power augmentation  
30 or enhancement equipment on a new and clean basis in a manner that accommodates  
31 technical limitations of the equipment. The Council's approval of modified testing  
32 parameters for power augmentation or enhancement equipment shall not require a site  
33 certificate amendment. The report shall also include an affidavit or other evidence  
34 that the site certificate holder or vendor has guaranteed the heat rate for operation  
35 with power augmentation or enhancement.  
36

37 (6) Within two months of completion of the first year of commercial operation of phase  
38 two, the site certificate holder shall provide to the Council a test report (Year One  
39 Test) of the actual heat rate (Year One Heat Rate) and nominal generating capacity  
40 (Year One Capacity) for phase two operating with power augmentation or  
41 enhancement technologies, without degradation, assuming no steam is supplied for  
42 cogeneration, as determined by a test at full power completed during the first 12  
43 months of commercial operation, with the results adjusted for the average annual site  
44 condition for temperature, barometric pressure and relative humidity and use of  
45 alternative fuels, and using a rate of 117 pounds of carbon dioxide per million Btu of

1 natural gas fuel. The full power test shall be 100 hours duration unless the Council  
2 has approved a different duration pursuant to Condition V.A.4(5).  
3

4 Condition V.A.4 is similar to Condition V.A.3, with changes to reflect the different CO<sub>2</sub> standard  
5 and method of compliance.  
6

- 7 • The introductory paragraph in Condition V.A.4 notes that application of the condition is  
8 discretionary, based on whether and how the site certificate holder reports its use of power  
9 augmentation technologies. It also notes that all monetary path payment requirements under  
10 Condition V.A.4 are supplemental to those required by Condition V.A.3.  
11
- 12 • Conditions V.A.4(1) and (2) cover the specifics of providing funds to the Oregon Climate  
13 Trust under the monetary path. Condition V.A.4(1) indexes the \$0.57/ton CO<sub>2</sub> offset fund  
14 rate to year-2000 dollars.  
15
- 16 • Condition V.A.4(3) paraphrases OAR 345-024-0710(5) concerning the site certificate  
17 holders' non-liability regarding performance of the Oregon Climate Trust.  
18
- 19 • Condition V.A.4(4) relates to the calculation of the excess CO<sub>2</sub> emissions and the monetary  
20 path payment requirement. As proposed for Condition V.A.3(4), the condition requires the  
21 site certificate holder to provide all of its calculations to the Office of Energy for verification.  
22 This condition specifies the appropriate CO<sub>2</sub> emissions standard at 0.7 lbs. CO<sub>2</sub>/kWh. It  
23 specifies the calculations of any supplemental offset payments that may be required, based on  
24 first year testing and sequential five-year operational periods.  
25
- 26 • Condition V.A.4(5) requires the site certificate holder to report the designed capacity and  
27 heat rate for operating with power augmentation and the limitation on the annual number of  
28 hours the site certificate holder intends to operate with power augmentation. It further  
29 provides for the Council to approve, outside of an amendment process, modifications to the  
30 testing requirements on a new and clean basis if necessary to accommodate technical  
31 limitations on the power augmentation equipment.  
32
- 33 • Condition V.A.4(6) specifies the report due from the new and clean test during the first year  
34 of operation.  
35

36 **Conclusion.** The Council finds that proposed Condition V.A.4, as modified, provides an  
37 optional and supplemental path for meeting the requirements of the CO<sub>2</sub> standard, OAR 345-  
38 024-0550, *et seq.*  
39

40 **E.4 OAR Chapter 345, Division 27: Council Mandatory and Site Specific Conditions**  
41 OAR 345-027-0020 requires that the Council impose 14 specified, or "mandatory," conditions in  
42 every site certificate. OAR 345-027-0023 authorizes the Council to include specified conditions  
43 in a site certificate, as appropriate on a site-specific basis. The Amended Site Certificate  
44 contains each of these conditions, or conditions that are substantially similar to these conditions,  
45 except for Mandatory Conditions in OAR 345-027-0020(2), (7), (8), (9), and (12) and Site  
46 Specific Conditions in OAR 345-027-0023(4), (8) and (11).

1 Mandatory Condition, OAR 345-027-0020(2), requires that before beginning construction the  
2 certificate holder shall submit to the Office a legal description of the site. The Office  
3 recommended that the Council add the following condition to the site certificate as Mandatory  
4 Condition (18):

5  
6 (18) Before beginning construction of phase two, the certificate holder  
7 shall submit to the Office of Energy a legal description of the site. The  
8 Office shall append the legal description to the site certificate.  
9 [Amendment 5] –

10  
11 Mandatory Condition, OAR 345-027-0020(7), relates to site restoration and is addressed in  
12 Section E.2.15 of this order.

13  
14 Mandatory Conditions, OAR 345-027-0020(8) and (9), relate to financial assurance and are  
15 addressed in Section E.2.3 of this order.

16  
17 Mandatory Condition, OAR 345-027-0020(12), relates to seismic hazards and is addressed in  
18 Section E.2.4 of this order.

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

25  
26 (19) The certificate holder shall restore the reception of radio and  
27 television at residences and commercial establishments in the primary  
28 reception area to the level present prior to operations of the electrical  
29 transmission line described in Section II.B.2, at no cost to residents  
30 experiencing interference resulting from the transmission line.

31  
32 As discussed in Section B.2.6, PGE, CS2 and Avista Power raised concern about the proposed  
33 condition and requested the Council not adopt it. Their letter points out that the site specific  
34 conditions in OAR 345-027-0023 are not mandatory conditions, but are discretionary conditions  
35 that the Council may or may not include in a site certificate. As discussed in Section B.2.6, the  
36 Council finds that in this case it is not necessary to impose this condition on phase two.

37  
38 Site Specific Condition, OAR 345-027-0023(8), is included in the carbon dioxide emissions  
39 conditions V.A.3 (5) and V.A.4(5) in Section E.3 of this order.

40  
41 Site Specific Condition, OAR 345-027-0023(11), is included in the carbon dioxide emissions  
42 conditions V.A.3 and V.A.4. in Section E.3 of this order.

43  
44 **Conclusion.** The Council finds that proposed Mandatory Condition (18) is necessary for the  
45 certificate holder to comply with OAR 345-027-0020(2) and OAR 345-027-0070(9) and the  
46 Council therefore adopts the proposed condition.

1 **F. Compliance with Other Standards and Requirements**

2 Under OAR 345-022-0000(1)(b), the Council must determine that the facility complies with all  
3 other applicable Oregon Statutes and administrative rules.  
4

5 **F.1. Noise OAR 340-35-035(1)(b)(B)**

6 The Council applies and enforces the Department of Environmental Quality's (DEQ) noise  
7 standards for energy facilities under its jurisdiction. The DEQ noise standard, OAR 340-35-035  
8 (1)(b)(B), has two elements. The first element requires that industrial noise sources not increase  
9 the noise level by more than 10 dB above existing ambient noise levels. This maximum increase  
10 clause is known as the "ambient degradation rule." The second element limits the maximum  
11 noise levels that may be caused by the noise source, as measured at noise-sensitive properties.  
12 The limits allow a moderately higher level of noise in the daytime than at night.  
13

14 **Discussion.** In the Final Order approving the site certificate, the Council concluded that the  
15 operation of the CSCP plant, subject to conditions included in the site certificate, would cause no  
16 significant adverse impact on the noise level of the surrounding area. The proposed extension of  
17 time for completing construction has no effect on the factual basis for the Council's decision, in  
18 the Final Order, that the noise standard was met.  
19

20 **Conclusion.** The Council finds that the CSCP meets the noise standard, OAR 340-35-  
21 035(1)(b)(B).  
22

23 **F.2. Other State Regulations Within the Council's Jurisdiction**

24 **F.2.1. Oregon Department of Transportation (ODOT) -- State Highways Rights-Of-  
25 Way**

26 The proposed extension of time for completing construction has no effect on the Council's  
27 finding, in the Final Order, that the CSCP involves no facilities that would be constructed in or  
28 affect state highway rights-of-way.  
29  
30

31 **F.2.2. Oregon Division of State Lands (DSL) -- Fill and Removal of Waters of the State**

32 The proposed extension of time for completing construction has no effect on the Council's  
33 finding, in the Final Order, that the CSCP project does not involve state-owned lands and  
34 requires no DSL permits.  
35

36 **F.2.3. Oregon Department of Forestry (ODF) -- Forest Lands and Practices**

37 The proposed extension of time for completing construction has no effect on the Council's  
38 finding, in the Final Order, that no ODF permitting requirements or rules are applicable to the  
39 project.  
40

41 **F.2.4. Oregon Department of Parks and Recreation (ODPR) -- State Parks**

42 The proposed extension of time for completing construction has no effect on the Council's  
43 finding, in the Final Order, that the project raises no significant concerns related to state parks.  
44

45 **Conclusion.** The Council finds that the CSCP meets all other applicable Oregon Statutes and  
46 administrative rules as required by OAR 345-022-000(1)(b).

1 **G. Unified Site Certificate**

2 On October 22, 1998, the Council issued the "First Amended Thermal Power Plant Site  
3 Certificate for the Coyote Springs Cogeneration Project," which incorporated all deletions and  
4 additions to the site certificate approved by amendments #1 through #4. Upon granting  
5 amendment #5, the Council will issue a unified site certificate in the form of a "Second  
6 Amended Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project,"  
7 which will incorporate amendments #1 through #5. The Council has pending a request for a  
8 partial transfer of the CSCP site certificate (amendment request #6). The Second Amended Site  
9 Certificate will also incorporate amendment #6, if the Council approves that request.

10  
11 **H. Conclusions about the Request for Amendment**

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

19  
20 Based on the above findings, reasoning and conclusions, the Council amends the First Amended  
21 Thermal Power Plant Site Certificate for the Coyote Springs Cogeneration Project as PGE  
22 requests in its Fifth Request to Amend Site Certificate and its Supplemented Fifth Request, dated  
23 April 18, 2000, subject to, and with the modifications noted in this order.

24  
25  
26 **FINAL ORDER**

27  
28 Based on the above findings of fact, discussions and conclusions of law, the Energy Facility  
29 Siting Council approves PGE's Fifth Request to Amend Site Certificate, with modifications  
30 discussed in this order. The Council Chair shall execute the site certificate amendment in the  
31 form of the "Second Amended Thermal Power Plant Site Certificate for the Coyote Springs  
32 Cogeneration Project." The Second Amended Site Certificate will incorporate amendments #1  
33 through #5. However, if the Council approves amendment request #6 for a partial transfer of the  
34 site certificate, the Second Amended Site Certificate will incorporate both amendments #5 and  
35 #6. The Second Amended Thermal Power Plant Site Certificate for the Coyote Springs  
36 Cogeneration Project will then include amendments #1 through #6.

37  
38  
39 Issued June 23, 2000.

40  
41  
42 

43  
44 Karen H. Green  
45 Chair  
46 Energy Facility Siting Council

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**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.