BEFORE THE ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of the Thermal Power Plant Site Certificate for the Hermiston Generating Project Request for Amendment No. 4 FINAL ORDER

Summary

The Energy Facility Siting Council approves this amendment request.

A. Summary and Background of the Request for Amendment

Hermiston Generating Company, LP, and PacifiCorp (the Holders), site certificate holders for the Hermiston Generating Project (HGP), have requested a fourth amendment to their site certificate to allow the facility to discharge process waste water to Lamb-Weston, Inc. The Council granted the site certificate for the facility on March 11, 1994. The Council subsequently amended the site certificate on August 12, 1994, amendment one; May 10, 1996, amendment two; and, July 23, 1996, amendment three (Partial Reassignment of Site Certificate). On July 23, 1996, the Council consolidated the three amendments and the original site certificate into the “Thermal Power Plant Amended Site Certificate for the Hermiston Generating Project.”

The Holders’ request for the fourth amendment is dated May 16, 1997. (The Holders labeled their request as a third amendment. Therefore, their documents carry that identification. This order will refer to the May 16, 1997 request as amendment four.) The site certificate holders are the Hermiston Generating Company, LP, PO Box 930, Hermiston, Oregon 97838, and PacifiCorp, 920 SW Sixth Avenue, Portland, Oregon 97204-1236.

The energy facility is located on a 13-acre site three miles southwest of Hermiston, Umatilla County, Oregon. The facility is a combustion turbine, combined cycle electric power plant fueled by natural gas. At annual average site conditions, net of auxiliary loads and assuming no process steam supply, the facility has a nominal electric generating capacity of 474.2 MW.

The energy facility consists of two power trains. Each has a combustion turbine generator, a heat recovery steam generator, a condenser, a steam turbine, a mechanical induced draft evaporative cooling tower, an air compressor system, an emission stack, and miscellaneous supporting equipment and improvements. Facilities common to both power trains include a maintenance/warehouse area, an administrative/control building, zero discharge system, raw water storage tank, stormwater detention pond, paved roads, and a parking area.
The energy facility currently uses a zero discharge system to process its waste water and returns a portion of it to its recirculating cooling water system. The site certificate holders propose developing an alternate method for reuse of the energy facility’s process waste water. They propose to discharge the energy facility’s process waste water to the Lamb-Weston Process Water System where Lamb-Weston would use the water to wash potatoes and Madison Farms would use it for crop irrigation.

The energy facility site is located adjacent to the Lamb-Weston potato processing plant, which it supplies with process steam. The Lamb-Weston plant operates a potato wash system to clean potatoes prior to processing them into a variety of food products. This wash stage removes dirt from the potato skins. Lamb-Weston disposes of water from the potato wash process by land application for crop irrigation under a Water Pollution Control Facilities (WPCF) Permit issued to Lamb-Weston by the Department of Environmental Quality (DEQ).

In this order, all references to the “original order” are to the Final Order in the Matter of the Application Hermiston Generating Company for a Site Certificate, which the Council issued March 11, 1994. Further, all references to the “amended site certificate” are to the “Thermal Power Plant Amended Site Certificate for the Hermiston Generating Project,” issued by the Council on July 23, 1996.

B. Procedural History

B.1 Office of Energy Review Steps

B.1.2 The Holders’ Request. The Holders submitted their request for amendment number four to the Council on May 16, 1997.

B.1.3 Review by Other Agencies, Local Governments and Tribes. OOE, pursuant to OAR 345-27-070(1), identified potentially affected agencies, local governments and tribes and asked them to review the request for amendment. OOE mailed a copy of the amendment request along with a review report form on May 22, 1997 to those agencies, local governments and tribes and asked them to reply by June 20, 1997.

The reviewing agencies, local governments and tribes are the Oregon Department of Geology and Mineral Industries (DOGAMI); the Oregon Department of Fish and Wildlife (ODFW); the Division of State Lands (DSL); the Department of Agriculture (ODA); the Department of Land Conservation and Development (DLCD); the Water Resources Department (WRD); the Department of Parks and Recreation (ODPR); the State Historic Preservation Office (SHPO); the Department of Transportation (ODOT), the Department of Environmental Quality (DEQ), the Office of State Fire Marshall, the Oregon Public Utilities Commission (OPUC), the Building Codes Division (BCD), the Department of Forestry (ODF), the Northwest Power Planning Council (NWPPC), the Cities of Hermiston, Stanfield, Umatilla, Echo, and Irrigon, Umatilla County, the Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of Warm Springs.
B.1.3.1 Replies

DEQ noted that it has received an application from Lamb-Weston to amend its WPCF permit to include process wastewater from HGP. DEQ staff reported that it would recommend approval of Lamb-Weston’s request, subject to DEQ’s administrative and public review processes, which should take until about September 1, 1997.

ODFW raised a question about whether there would be an increase in the number of acres put into agricultural production as a result of Madison Farms accepting additional process waste water from HGP via Lamb-Weston. Once HGP clarified that the process waste water would be applied to land already in agricultural production, ODFW had no objections.

SHPO commented that it had no concerns about the proposal unless cultural resources are found during monitoring by the tribes of the waste water pipeline construction.

State Fire Marshall, District 11, raised a concern about the facility’s ability to maintain the availability of fire fighting water in the cooling tower ponds after the implementation of the proposal. HGP clarified that its proposal would have no impact on the volume of cooling tower water available for fire protection. The State Fire Marshall indicated that HGP’s explanation had satisfied its concerns.

The Umatilla County Planning Department stated that it had no comments on the proposed amendment, but noted that HGP would have to obtain a zoning permit for construction on new water pipelines. This is similar to a building permit, rather than being a land use decision that requires public process. The County issues the permit over-the-counter with a half-page application form. Such permits are already covered under the Organizational, Managerial and Technical Standard condition 1, page 9, of the amended site certificate. This permit is a design issue outside the Council’s jurisdiction per ORS 469.401(4).

WRD notified OE that HGP’s process waste water qualifies as reclaimed water under HB 2095, passed by the 1997 Oregon Legislature. Therefore, once the law becomes effective on October 4, 1997, neither HGP nor Lamb-Weston would need an additional water right permit for HGP to discharge the waste water as it proposed in its amendment. The party intending to use the reclaimed water would have to file information with WRD about its intended use, but this is not a matter requiring a WRD permit. Prior to the law taking effect, Lamb-Weston would need an additional or amended water right to pass HGP waste water through its system without first using it for potato washing. The circumstances under which this situation could occur are unlikely, as described in section E.1.1.2(b). However, instead of having to apply for an additional water right permit, HGP would have recourse of using its existing zero-discharge system until the law takes effect.

No other agencies, local governments, or tribes commented.
B.1.4 Initial Public Notice. On May 22, 1997, OOE mailed a notice of the Holders’ request for amendment to all persons on the Council’s general mailing list and persons on the Council’s mailing list for the Holders’ initial site certificate proceeding, pursuant to OAR 345-27-070(1). On May 28, 1997, OOE mailed the same notice of the Holders’ request for amendment to an updated list of adjacent property owners, which the Holders supplied. The notice asked for initial comments to OOE by June 20, 1997. No one from the public commented.

B.1.5 Proposed Order. OOE issued its proposed order June 27, 1997.

B.1.6 Notice. On June 27, 1997, OOE mailed notice of the proposed order to the Council’s general mailing list, persons on the Council’s mailing list for the Holders’ first site certificate proceeding, and the updated adjacent property owners list, pursuant to OAR 345-27-070(2). The notice set a deadline for public comments and requests for a contested case of July 28, 1997.

B.1.7 Public Comments on Proposed Order. The comment period closed at 5:00 p.m. on July 28, 1997. OOE received no written comments on the proposed order nor requests for a contested case during the 30-day comment period pursuant to OAR 345-27-070(3).

B.1.8 Final Order. Following the close of the public comment period, OOE prepared a final order for the Council’s consideration at its August 14 and 15, 1997 meeting.

B.1.9 Notice of Hearing on Final Order. OOE provided notice of the hearing on the final order in the agenda for the Council’s August 14 and 15, 1997 meeting. OOE mailed the agenda notice on August 6, 1997.

B.2 Council Review Steps

B.2.1 Council Notice and Information. OOE mailed the Holders’ request for amendment and a memo summarizing the request to the Council on May 21, 1997. Staff and the Holders presented information about the request to the Council at its May 30, 1997 meeting. OOE mailed the proposed order to the Council on June 27, 1997. OOE staff briefed the Council about the status of the review process for the proposed order at its meeting on July 21, 1997.

B.2.2 Public Hearing on Final Order. The Council conducted a public hearing on the Holders’ request for an amendment on August 14, 1997, pursuant to OAR 345-27-070(5). On that date, the Council voted to grant the request for the amendment.

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

C.1 Proposed Modification

The Holders propose developing an alternate method for reuse of the energy facility’s process waste water. The energy facility’s process waste water includes:
cooling tower blowdown, inlet raw water filter backflush, and inlet raw water clarifier blowdown. HGP uses Food and Drug Administration (FDA)-approved chemicals in the energy facility’s water treatment regimen. The waste water produced by the energy facility contains elevated levels of dissolved solids and suspended solids, which are measured as Total Dissolved Solids (TDS) and Total Suspended Solids (TSS), respectively.

The energy facility currently uses a zero discharge system to process this waste water and returns a portion of it to the recirculating cooling water system. The proposed alternate method is to discharge the energy facility’s process waste water to the Lamb-Weston Process Water System where Lamb-Weston would use the water to wash potatoes and Madison Farms would use it for crop irrigation. Upon Council approval of this amendment, HGP would make discharging to the Lamb-Weston Process Water System the energy facility’s primary method for disposal of its process waste water. HGP would place the zero discharge system in cold standby status and retain it as a back-up method.

C.2 Lamb-Weston Process Water System

C.2.1 Potato Wash System

Lamb-Weston operates a potato wash system that currently has an average annual water requirement of 1,776 gallons per minute (gpm). This step washes field dirt from the potatoes. Wells supply water for the potato wash. The system has three settling bays to remove suspended solids that are collected in the potato wash process. Waste water from the potato wash is disposed by land application to irrigate crops.

The energy facility’s process waste water can provide 293 gpm, on an estimated average annual basis, to the potato wash system assuming 100 percent dispatch. This could reduce the amount of well water used by Lamb-Weston about 16 percent when the potato wash system is using the process waste water.

C.2.2 Land Application System

The land application system is operated by Madison Farms, Inc., under a long-term contract with Lamb-Weston. Waste water from the potato wash system is conveyed via two 12-inch pipelines from the Lamb-Weston plant to Madison Farms’ property and by one 12-inch pipeline to Lamb-Weston’s North Farm. The waste water is applied at agronomic rates by sprinkler systems to existing cropland cultivated by Madison Farms. The operation of the system is regulated by Oregon DEQ WPCF Permit 101326, which Lamb-Weston holds. DEQ requires regular monitoring and reporting to assure compliance with the WPCF Permit conditions.

The land application system is designed for a maximum delivery of waste potato wash water to Madison Farms’ property of 3,000 gallons per minute (gpm). The current average flow of waste potato wash water to Madison Farms’ fields is 1,776 gpm. Under average annual conditions, only 59 percent of the capacity is used. There are peak periods when use is higher. However, in all cases, the land application system has the
capacity and flexibility to accommodate the energy facility’s process waste water discharge.

There are issues related to how the use of HGP’s process waste water is affected by or exempt from state water law. Those are discussed in section E.1.1.2(b) below.

C.2.3 Lamb-Weston Settling Bays
Lamb-Weston operates three settling bays to remove the larger suspended solids from its potato wash process. Each has a capacity of 44,888 gallons. Lamb-Weston uses one bay at a time on a rotating basis. Water flows into the active bay at a constant rate of 200 gpm. The retention time in the bay is about four hours. When the suspended solid loading has been sufficiently reduced, the water enters the reuse basin and is used in the potato wash system.

The energy facility’s raw water clarifier produces process waste water at a rate of approximately 3 gpm on an average annual basis. Flows can be as high as 40 gpm on an average hourly basis. This process waste water contains elevated levels of suspended solids. The energy facility’s raw water clarifier blowdown will flow to the active settling bay for treatment before it enters the Lamb-Weston Process Water System.

Two other methods are available when peak hourly flows are too high for the active settling bay to accommodate them. The first is to use the energy facility’s raw water clarifier filter press to remove suspended solids and return the water to the energy facility’s cooling water system. The second is to send the process waste water to Lamb-Weston’s process water clarifier from which it would go to the land application system. Under all operating conditions, the three alternative methods provide enough capacity and flexibility to accommodate the energy facility’s raw water clarifier blowdown discharge requirement.

C.3 Proposed Modification to Deliver the Energy Facility’s Process Waste Water to the Lamb-Weston Process Water System

C.3.1 Additional Supporting Facilities
In order to connect with the Lamb-Weston Process Water System, new related and supporting facilities are required. Therefore, the Holders request approval to construct the following related and supporting facilities:

1. A 0.35-mile, 6-inch diameter pipe between the energy facility’s cooling tower basins and two connection points, one upstream and one downstream of the potato wash system, to deliver the energy facility’s process waste water to the Lamb-Weston Process Water System.

2. A 0.25 mile, 3-inch diameter pipe between the energy facility’s raw water clarifier and the three settling bays to deliver raw water clarifier blowdown to the Lamb-Weston settling bays. The pipeline will have a manifold to allow switching between bays. The pipeline can also be connected to the Lamb-
Weston Process Water System downstream of the potato wash to allow process waste water to be delivered to Lamb-Weston’s process water clarifier from which it would go to the land application system.

All pipelines will be buried on the energy facility site and beneath paved roads on Lamb-Weston property with a minimum of 4-feet of cover. The energy facility’s existing pumps will supply sufficient pressure to deliver process waste water to the Lamb-Weston Process Water System. In addition, HGP will install valves, metering, thrust blocks, and heat trace.

C.3.2 Modification of WPCF No. 101326 to Discharge the Energy Facility’s Process Waste Water to the Lamb-Weston Process Water System

Connection to the Lamb-Weston Process Water System and discharge of the energy facility’s process waste water to this system requires modification of Lamb-Weston’s WPCF Permit No. 101326. This permit, which DEQ issued on October 10, 1995, regulates the operation of the land application system and provides monitoring and reporting requirements to assure compliance with the permit conditions. Lamb-Weston filed an application with DEQ to modify its WPCF permit, dated May 23, 1997, consistent with this request for amendment. DEQ received Lamb-Weston’s request on June 5, 1997.

C.3.3 Energy Facility Operational Changes Resulting from the Proposed Modification

Water inflows to the energy facility will increase about 178 gpm under summer conditions and 336 gpm under winter conditions to replace the process water make-up currently supplied by the zero discharge system. During summer conditions inflows will increase from 2,153 gpm to 2,331 gpm and during winter conditions from 1,558 gpm to 1,894 gpm. These increases are within the 2,600 gpm peak use that HGP originally proposed and the Council evaluated in its original order (see pages 23 and 27).

C.3.4 Characteristics of Process Waste Water in the Proposed Operation

The energy facility’s process waste water contains elevated levels of TDS, which are the result of concentration of Columbia River water by evaporation in the energy facility’s cooling towers. Based upon cycling studies using Columbia River water, TDS levels in the energy facility’s process waste water that is discharged to the Lamb-Weston Process Water System will be between 783 ppm and 1,193 ppm, depending upon meteorological and operating conditions. The expected annual average TDS level, based on the results of the cycling study, is 990 ppm.

The energy facility’s raw water clarifier blowdown contains high levels of suspended solids, which are also derived from constituents in Columbia River water. Based upon an expected suspended solid concentration of 3 percent, TSS levels in raw water clarifier blowdown discharged to the Lamb-Weston settling bays are expected to be 31,303 ppm.

D. Amendments to Amended Site Certificate
The Holders request the following additional amendments to the amended site certificate to allow them to construct and operate the proposed land application discharge system. OOE recommendations follow each requested amendment. OOE recommendations show modifications to the amended site certificate conditions as strikeouts and underlines. The Council finds these amendments are necessary to construct and operate the proposed system.

D.1 Revisions to Amended Site Certificate Conditions

D.1.1 The Holders request that the Council revise condition I.A., page 1, line 31, as follows:

“...As used in this Site Certificate, the “application for site certificate” or the ASC, includes those changes and/or additions to the Facility described in: (a) Holders’ Request for Amendment No. 1, dated June 3, 1994, attached to the First amendment [sic] as Exhibit 1; (b) in Holders’ Petition to Apply Subsequent Rules and Request for Amendment No. 2, dated January 19, 1996; (c) Holder’s Request for Partial Assignment, dated April 26, 1996; and (d) Holders’ Request for Amendment No. 3, dated May 16, 1997. The facts, reasoning, conclusions and conditions relied on for approval are set out in EFSC’s final orders dated March 11, 1994, August 12, 1994, May 10, 1996, July 23, 1996 and [month/day], 1997, which by this reference are incorporated herein.”

OOE recommends the Council adopt this amendment, as modified below:

“...As used in this Site Certificate, the “application for site certificate” or the ASC, includes those changes and/or additions to the Facility described in: (a) Holders’ Request for Amendment No. 1, dated June 3, 1994, attached to the First Amendment as Exhibit 1; (b) in Holders’ Petition to Apply Subsequent Rules and Request for Amendment No. 2, dated January 19, 1996; and (c) Holder’s Request for Partial Assignment, dated April 26, 1996; and (d) Holders’ Request for Amendment dated May 16, 1997. The facts, reasoning, conclusions and conditions relied on for approval are set out in EFSC’s final orders dated March 11, 1994, August 12, 1994, May 10, 1996, and July 23, 1996, and August 14, 1997, which by this reference are incorporated herein.”

The Council adopts this amendment as recommended by OOE.

D.1.2 The Holders request that the Council revise condition II.B.1., page 3, line 24, as follows:

“...Facilities common to both units include a maintenance, [sic] warehouse, a control/administration building, pipelines connecting to Lamb Weston’s process water system, backup zero discharge facilities, stormwater detention facilities, paved roads and a parking area...”
OOE recommends the Council adopt this amendment, as modified below:

“...Facilities common to both units include a maintenance/warehouse area, a control/administration building, water pipelines connecting to Lamb-Weston’s process water system, backup zero discharge facilities, stormwater detention facilities, paved roads and a parking area...”

The Council adopts this amendment as recommended by OOE.

D.1.3 In conditions IV.D.2, 3, and 4, under “Conditions Related to Public Health and Safety,” the Holders request that the Council insert the word “gas” before the word “pipeline” at page 15, lines 6, 9, 15, and 16.

OOE recommends the Council adopt this amendment. The revised conditions would read as follows:

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

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

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

The Council adopts these amendments as recommended by OOE.

D.1.4 The Holders request that the Council revise condition F, Exhibit B.1., under “Conditions Added in Accordance with OAR 345-27-020(11),” page 18, line 39, as follows:

Holder shall construct and operate a zero discharge system as described on pages B-12.a.2 through B-14.a.2 of the ASC, as amended by the “Amendment to Application for Site Certificate” dated December 24, 1993 (at pages 1 and 4), and as further amended by the “Request for Third [sic] Amendment,” at page 3, submitted on May 16, 1997. The zero discharge system shall be a reserve backup system. The primary system for disposing of process waste water shall be through reuse as potato wash water and irrigation water in accordance with the Lamb Weston WPCF permit, as described in the Request for Third [sic] Amendment, at page 2.
OOE recommends the Council adopt this amendment, as modified below:

“(1) Holder shall construct and operate a zero discharge system as described on pages B-12.a.2 through B-14.a.2 of the ASC, as amended by the “Amendment to Application for Site Certificate” dated December 24, 1993 (at pages 1 and 4), and as further amended by the “Request for Amendment” at pages 6-8, submitted on June 3, 1994, and as further amended by the “Request for Amendment” dated May 16, 1997. The zero discharge system shall be a reserve backup system. The primary system for disposing of process waste water shall be through reuse as potato wash water and irrigation water in accordance with the Lamb-Weston Water Pollution Control Facilities permit, as described in the Holders’ “Request for Amendment,” dated May 16, 1997.”

The Council adopts this amendment as recommended by OOE.

D.2. Additional Amendments to the Site Certificate

D.2.1 The Holders request that the Council add the following condition under the “Organizational, Managerial and Technical Expertise Standard,” page 9:

Prior to commencing construction of the process waste water discharge pipelines to Lamb Weston, Holders shall demonstrate that DEQ has approved an amendment to Lamb Weston’s Water Pollution Control Facilities (WPCF) permit allowing Lamb Weston to irrigate with process waste water received from the energy facility.

OOE recommends the Council adopt this amendment, as modified below:

(4) Prior to commencing construction of the process waste water discharge pipelines to Lamb-Weston, the Holders shall demonstrate that DEQ has approved an amendment to Lamb-Weston’s Water Pollution Control Facilities permit allowing Lamb-Weston to use process waste water received from the energy facility for irrigation.

The Council adopts this amendment as recommended by OOE.

D.2.2 The Holders request that the Council add the following condition under the “Organizational, Managerial and Technical Expertise Standard,” page 9:

Prior to commencing construction of the waste water pipelines to Lamb Weston, Holders shall have a contract or other agreement with Lamb Weston to accept and dispose of the energy facility’s process waste water.

OOE recommends the Council adopt this amendment, as modified below:
Prior to commencing construction of the wastewater pipelines to Lamb-Weston, the Holders shall have a contract with Lamb-Weston to accept and dispose of the energy facility’s process waste water.

The Council adopts this amendment as recommended by OOE.

**D.2.3** The Holders request that the Council add the following condition under the “Waste Minimization Standard,” pages 12 and 13:

Wastewater conveyed from the energy facility to Lamb Weston for potato wash and irrigation use shall comply with all applicable water quality parameters of Lamb Weston’s WPCF permit.

**OOE recommends the Council adopt this amendment, as modified below:**

Wastewater conveyed from the energy facility to Lamb-Weston for potato wash and irrigation use shall comply with all applicable water quality parameters of Lamb-Weston’s Water Pollution Control Facilities permit.

The Council adopts this amendment as recommended by OOE.

**E. Compliance with Council Standards**

The amended site certificate provides at condition IV.A.2:

“The conditions of this Site Certificate may not be changed except as provided in OAR 345-27-050 through OAR 345-27-080, and 345-27-095 (November 1995)...”

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

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

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

**E.1 Standards Relating to the Applicant**
E.1.1 Organizational, Managerial and Technical Expertise, OAR 345-22-010

This standard has three paragraphs. One (010(1)) relates to application qualifications and capability and two (010(2) and (3)) relate to third-party permits.

E.1.1.1 Applicant Qualification and Capability, OAR 345-22-010(1)

To meet this paragraph of the standard, the Council must find that “the applicant has the organizational, managerial and technical expertise to construct and operate the facility. To conclude that the applicant has the organizational, managerial and technical expertise to construct and operate the proposed facility, the Council must determine that the applicant has a reasonable probability of successful construction and operation of the facility considering the experience of the applicant, the availability of technical expertise to the applicant, and, if the applicant has constructed or operated other facilities, the past performance of the applicant, including but not limited to the number and severity of regulatory citations, in constructing or operating a facility, type of equipment, or process similar to the proposed facility.”

Discussion. This request does not involve any change in the entities responsible for construction or operation of the facility. In particular, the request does not involve a change in the operating agent, U.S. Operating Services Company (USOSC). The proposed amendment involves the construction of pipelines to connect the energy facility to the Lamb-Weston Process Water System and to allow the discharge of process waste water to that existing system. The 1994 original order (see page 53) and the Order Approving Partial Reassignment of HGC Site Certificate determined that the Holders have the necessary expertise to construct and operate the facility. There has been no substantive change to the standard since the Council reviewed the Holders’ qualifications.

The Council finds that construction of water pipelines is incidental to the construction and operation of the whole facility and is within the expertise of the Holders and USOSC.

Conclusion. The Council finds that the Holders have satisfied the requirements of OAR 345-22-010(1).

E.1.1.2 Third-Party Services and Permits, OAR 345-22-010(2)

The Council amended the standard for organizational, managerial and technical expertise—third-party services and permits effective November 10, 1994. This paragraph of the standard requires that:

"If the applicant will not itself obtain any state or local government permit or approval for which the Council would ordinarily determine compliance with applicable standards, but will rely on a permit or approval issued to a third party, the Council must determine that the named third party has, or has a reasonable likelihood of obtaining, the necessary permit or approval, and that the applicant has, or has a reasonable likelihood of entering into, a contractual or other arrangement with the third party for access to the resource or service secured by that permit or approval."
**a. Water Services**

**Discussion.** The amendment requires that the Council determine that a third party has obtained, or has a reasonable likelihood of obtaining any required local permits, as well as the previously required state permits. Under Water Resources Department Permit #49497, the Port of Umatilla has the right to withdraw up to 155 cubic feet per second (cfs) from the Columbia River. The Holders have a contractual right to use up to 2,600 gpm (equivalent to about 5.8 cfs) from the Port of Umatilla’s Regional Water Supply System. The contractual right is adequate to meet the peak demands of the energy facility using either the existing zero discharge system or the proposed discharge to the Lamb-Weston Process Water System.

The increase in the rate of average daily water consumption of the energy facility is within the 5.8 cfs water withdrawal from the Columbia River that the original order anticipated and the allocation that HGP received from the Port of Umatilla. The additional withdrawal does not change the findings and conclusions reached by the original order (see pages 23 or 59 of the original order and the discussion under section E.3.3 below.) Therefore, the Council finds there is no change required to the amended site certificate relating to water supply.

**b. Process Waste Water Disposal**

**Discussion.** The energy facility currently uses a zero discharge system to process its waste water and returns a portion of it to the recirculating cooling water system. There is no discharge from the energy facility site.

Under the proposed land application system, there will be an off-site discharge of approximately 225 gpm during summertime conditions and 367 gpm during wintertime conditions to the Lamb-Weston Process Water System and ultimately to land application disposal. These discharges are larger than the increase in inflows because the discharge also incorporates former losses from the zero discharge facility.

**WPCF.** Land application of process waste water will require a modification of Lamb-Weston’s WPCF Permit No. 101326. Lamb-Weston has submitted to DEQ an application for a modification to the permit to allow land application of the process waste water from the energy facility on land owned or operated by Madison Farms.

DEQ reports that, based on its review of the information contained in Lamb-Weston’s request, it has determined “that Lamb-Weston has demonstrated through application of appropriate process controls and/or expansion of the land application treatment and disposal system, waste waters from the Lambert-Weston and Hermiston Generating facilities can be co-managed in a manner that will provide an equivalent level of environmental protection as is currently provided for in the management of Lambert-Weston’s potato processing wastewater. Accordingly, the Department is able to recommend modification of Lambert-Weston’s WPCF permit as requested.” DEQ notes that there will be further administrative procedures to process the request, along with
public notice and the opportunity for the public to comment. DEQ reported that it could
likely issue the permit by September 1, 1997.

Water Rights and Notification. Under HB 2095, passed by the 1997 Oregon
Legislature, beneficial use of the HGP process waste water is exempt for state water right
regulation because it is “reclaimed water,” as defined by statute. This law becomes
effective on October 4, 1997. That is close to the time that HGP could construct the
proposed pipelines, if the Council grants this request. However, there could be a short
time that HGP would be discharging waste water to Lamb-Weston before the law takes
effect:

Prior to the law taking effect, Lamb-Weston could receive HGP’s waste water,
use it to wash potatoes, and subsequently use it for irrigation. Lamb-Weston
holds a water right to use 3.79 cfs of effluent from a food processing plant for
irrigation and supplemental irrigation of 808.3 acres. This right is evidenced by
certificate of water right no. 67222. Any effluent generated at the Lamb-Weston
plant can be used for irrigation on these 808.3 acres regardless of the original
water source. Since HGP process waste water, when used for potato washing,
will replace other sources of water, its use is covered under this permit. Most of
the time, Lamb-Weston will use HGP process waste water for potato washing.
Lamb-Weston would only forego use of the HGP process waste water when the
potato washing system is down for repair or maintenance.

However, prior to the law taking effect, Lamb-Weston would need an additional
or amended water right to discharge HGP’s waste water through its system
without first using it for potato washing. It is unlikely that the circumstance
would arise that Lamb-Weston could not use the water because it would only
happen if there were an unexpected stoppage of the potato washing equipment.
Furthermore, there would only be a few weeks during which this circumstance
would matter. In the event that Lamb-Weston could not accept the HGP process
water discharge for potato washing, HGP would operate its zero discharge system
until the law took effect instead of discharging its process waste water to Lamb-
Weston. Therefore, Lamb-Weston would not need to obtain an additional water
right.

The Holders are currently developing a contract with Lamb-Weston for the reuse
of the energy facility’s process waste water. Lamb-Weston has expressed its intent to
enter into this contract in a timely manner. Therefore, the Council finds that the Holders
have a reasonable likelihood of obtaining a contractual arrangement to discharge process
waste water to Lamb-Weston, with Lamb-Weston subsequently discharging the process
waste water for land application.

Conclusion. The Council finds that HGP meets the requirements of OAR 345-
22-010(2) for third-party services and permits.
E.1.1.3 Third-Party Services and Permits, OAR 345-22-010(3)

The third paragraph of the standard provides:

“If any third party named by the applicant does not have the necessary permit or approval at the time the Application for Site Certificate is approved, the Council may require as a condition that the Site Certificate Holder may not commence construction or operation as appropriate until the third-party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.”

Discussion. As discussed in Section D of this order, the Holders are proposing, and OOE recommends, to add the following two conditions under the “Organizational, Managerial and Technical Expertise Standard” of the amended site certificate:

(4) Prior to commencing construction of the process waste water discharge pipelines to Lamb-Weston, the Holders shall demonstrate that DEQ has approved an amendment to Lamb-Weston’s Water Pollution Control Facilities permit allowing Lamb-Weston to use process waste water received from the energy facility for irrigation.

(5) Prior to commencing construction of the wastewater pipelines to Lamb-Weston, the Holders shall have a contract with Lamb-Weston to accept and dispose of the energy facility’s process waste water.

Conclusion. The Council adopted these two conditions in sections D.2.1 and D.2.2 above. With the addition of these two conditions, the Council finds that Holders meet the requirements of OAR 345-22-010(3).

E.1.1.4 Financial Assurance Standard, OAR 345-22-050

The Council last amended the standard for financial assurance effective November 16, 1995. OAR 345-22-050 requires the Council to find that "the applicant has a reasonable likelihood of obtaining a bond or comparable security, satisfactory to the Council, in an amount adequate to restore the site if the site certificate holder:

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

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

The latest amendment added the phrase “to a useful, non-hazardous condition” to OAR 345-22-050(2).

Discussion. In its original order, pages 54-56, and in its “Order Approving Partial Reassignment of HGC Site Certificate,” the Council concluded that the Holders
met this standard. The energy facility is constructed. The only additional construction
necessary under the requested amendment is the construction of the underground waste
water pipelines from the energy facility to Lamb-Weston. Removal of the pipelines or
their retirement in place at the retirement of the facility should not pose an obstacle of
restoring the site to a useful, non-hazardous condition. The Council finds that this
relatively minor construction does not impact the ability of the Holders to meet the
financial assurance standard.

Conclusion. The Council finds that the Holders meet the financial assurance
standard, OAR 345-22-050.

E.2 Standards Relating to the Site and Structure

E.2.1 Structural Standard, OAR 345-22-020

The Council last amended the structural standard effective November 16, 1995. The
standard requires the Council to find:

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

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

Discussion. Exhibit G to the Application for Site Certificate provides the
required characterization of the energy facility site, consistent with the scope of this
proposed amendment. That characterization covers the area that would be affected by the
proposed amendment. In addition, Bechtel prepared a pre-construction geological survey
and submitted it to the Department of Geology and Mineral Industries for peer review
pursuant to Condition IV.B(1) of the Site Certificate as amended July 23, 1996. By letter
dated August 12, 1994, DOGAMI concluded that if the facility were designed to meet
OBC [Oregon Building Code] safety standards, the facility would be adequate to avoid
potential dangers presented by seismic hazards affecting the site.

Conclusion. The Council finds that HGP meets the structural standard, OAR
345-22-020.
E.2.2. Soil Protection Standard, OAR 345-22-022

The Council amended and renumbered the soil protection standard effective November 10, 1994. The standard requires the Council to find “...that the design, construction and operation of the facility, taking into account mitigation, is not likely to result in a significant adverse impact to soils.” At the time the Council issued the original order, the standard required that the facility be designed, constructed, operated, and retired to avoid, to the greatest extent possible, adverse impacts on soils.

Discussion. The direct disturbance of soils will be the construction of the pipelines from the energy facility to connect with the Lamb-Weston Process Water System. That disturbance will be temporary and will occur entirely on property currently developed for industrial and utility uses. Moreover, the pipelines will be buried on the energy facility site and beneath paved roads on Lamb-Weston property. They will have a minimum of 4-feet of cover.

The land application system has been successfully operated by Lamb-Weston and Madison Farms for several years. The addition of the energy facility’s process waste water will not increase the quantity of water delivered to the land application system when it is discharged to the Lamb-Weston Process Water System upstream of the potato wash. When the potato wash system is bypassed, it will increase the amount of water delivered to the land application system by about 225 gpm during summer conditions and 367 gpm during winter conditions for short periods.

The Council is concerned with the impact of land application of waste water on soil quality, specifically increased soil salinity and decreased soil productivity. The waste water management plan and the modified WPCF permit will contain measures and conditions to monitor soil salinity and maintain soil productivity. Measures that DEQ requires include controlled leaching to move salts beyond the crop root zone; a monitoring plan to check for salinity levels in soil at various depths; and, monitoring of soil moisture for water balance, proper irrigation scheduling, and for tracing the seasonal movement of the moisture front. Furthermore, DEQ reports that the waste waters can be managed to provide an equivalent manner of environmental protection as is currently provided in the management of Lamb-Weston’s potato processing waste water. The Council finds that these measures are sufficient to protect against significant adverse impact to soil quality.

Conclusion. The Council finds that HGP meets the soil protection standard (OAR 345-22-022).

E.2.3 Land Use Standard, OAR 345-22-030(2)(a)

The Council renumbered the land use standard requiring local land use approval effective November 10, 1994, but did not amend it in substance. This standard requires that the facility be in compliance with “the statewide planning goal adopted by the Land Conservation and Development Commission.” OAR 345-22-030(1)
“(2) A proposed facility shall be found in compliance with section (1) of this rule if:

(a) The facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government, or...

Discussion. The only new structures associated with the requested amendment are the underground waste water pipelines. The pipelines will be located entirely on land within the land use jurisdiction of Umatilla County on land zoned Light Industrial (LI). Compliance of the energy facility with the conditional use standards applicable to utility facilities in the LI zone is addressed in Exhibit I to the Application for Site Certificate. Findings with respect to those standards are set forth in the original order (see pages 36-43). Umatilla County has issued a conditional use permit for the energy facility.

The Umatilla County Planning Department noted that HGP would have to obtain a zoning permit for construction of new water pipelines. This is similar to a building permit. It relates to the design of the facility, rather than being a land use decision relating to siting. The County issues the permit over-the-counter with a half-page application form. It does not require a local public process. Such permits are already covered under the Organizational, Managerial and Technical Standard condition 1, page 9, of the amended site certificate. This permit is a design issue outside the Council’s jurisdiction per ORS 469.401(4).

Conclusion. The Council finds that HGP meets the land use standard, OAR 345-22-030.

E.3 Standards Relating to the Impacts of Construction, Operation and Retirement

E.3.1 Protected Area Standard, OAR 345-22-040

The Council last amended the protected area standard effective November 16, 1995. This standard prohibits the siting of an energy facility in any of the listed protected areas. OAR 345-22-040(1). The standard permits the siting of a facility outside the listed protected areas so long as the Council finds, “taking into account mitigation, the design, construction and operation of the facility...is not likely to result in significant adverse impact” to any of the listed protected areas. The earlier standard required a finding that a facility “will not” result in significant adverse impacts.

Discussion. In the original order, the Council found that the energy facility site is not within any of the protected areas (see page 58). The process waste water discharge pipelines between the energy facility and Lamb Weston likewise will not be within a protected area. No sensitive natural resources will be impacted by the construction of the pipelines because construction activity will be confined to either the energy facility site or surfaced areas on Lamb Weston property.
As discussed in Exhibit J of the Application for Site Certificate for the Hermiston Generating Project (Table J-1), the closest “protected area” to the energy facility site is the Hermiston Agricultural Research and Extension Center, located four miles to the east. In the original order, the Council found that there were no protected areas within four miles of the energy facility site (see page 58). The Council finds that the construction of the underground waste water pipelines will not have a significant adverse impact on the Hermiston Agricultural Research and Extension Center or any other protected area identified in Exhibit J of the Application for Site Certificate.

Conclusion. The Council finds that HGP meets the protected areas standard, OAR 345-22-040,

E.3.2 Fish and Wildlife Habitat Standard, OAR 345-22-060
The Council last amended the fish and wildlife habitat standard effective November 16, 1995. For this standard, the Council must find that "the design, construction, operation and retirement of the facility, taking into account mitigation, is consistent with the fish and wildlife mitigation goals and standards of OAR 635-415-030." OAR 635-415-030 describes four categories of habitat in order of their value. The rule then established mitigation goals and corresponding implementation standards for each habitat category.

Discussion. Exhibit P of the Application for Site Certificate addressed fish and wildlife habitat. The original order finds: “Because the portion of the site containing the energy facility is within an industrial area, and not within the flood plain or riparian zone of the Umatilla River, no net loss of habitat units or habitat value is reasonably expected to occur during construction of the energy facility. Operation and retirement of the facility are not expected to affect threatened, endangered, or sensitive species or their habitat.” (See pages 58 and 59.)

The original order also finds that “...the rate of water withdrawal during operation of the facility is so low that it is reasonably expected that operation of the facility would not impact aquatic habitat or change the amount of habitat available for fish species.” (See page 59.) The increase in the rate of average daily water consumption of the energy facility is within the 5.8 cfs water withdrawal from the Columbia River that the original order anticipated and the allocation that HGP received from the Port of Umatilla. The additional withdrawal does not change the findings and conclusions of the original order with respect to fish and wildlife habitat (see pages 23 and 59).

The new pipelines would be located entirely within the industrial area discussed in the original order and outside the flood plain or riparian zone of the Umatilla River. Therefore, the design, construction, operation and retirement of the pipelines would result in no net loss of habitat units or habitat value. As discussed in Section E.1.1.2.(a), the disposal of the energy facility’s process waste water to the Lamb Weston Process Water System will not affect the maximum water demand of 5.8 cfs evaluated in the original order. The Council finds that the findings adopted in 1994 with respect to impacts on aquatic and fish habitat apply equally to the requested amendment.
Conclusion. The Council finds that HGP meets the fish and wildlife habitat standard, OAR 345-22-060.

E.3.3 Threatened and Endangered Species, OAR 345-22-070

The Council amended the threatened and endangered species standard effective November 10, 1994. This standard requires that the Council find that the design, construction, operation and retirement of the facility, taking into account mitigation be consistent with any applicable conservation program adopted pursuant to ORS 496.172(3) or ORS 564.105(3). If no conservation program applies, the facility must not have the potential to reduce significantly the likelihood of the survival or recovery of any threatened or endangered species listed under ORS 496.172(2) or ORS 564.105(2). The standard in place at the time Council issued the original order required a finding, if no conservation program applied, that the facility would not “appreciably” reduce the likelihood of species survival or recovery. These standards relate to the protection of both wildlife and plant species listed as threatened or endangered.

Discussion. This standard relates to the protection of both wildlife and plant species listed as threatened or endangered. As discussed in Exhibit R of the Application for Site Certificate, Woodward Clyde surveyed the energy facility site on foot in 1992. No threatened or endangered species are known to occur at the energy facility site. (See Exhibit R at page R-1.) Therefore, no sensitive natural resources will be impacted by the construction of the pipelines because construction activity will be confined to either the energy facility site or surfaced areas on Lamb-Weston property.

The Council evaluated the potential impacts of water use on threatened and endangered species in the original order. The proposed amendment will increase current water use, but the increase in the rate of average daily water use of the energy facility is within the 5.8 cfs water withdrawal from the Columbia River that the original order anticipated and the allocation that HGP received from the Port of Umatilla. The additional withdrawal does not change the findings and conclusions reached in the original order.

The original order at page 23 states:

“The amount of water required for the operation of the facility represents approximately 0.004 percent of the lowest annual mean discharge of the Columbia River at McNary Dam, and represents about 0.005 percent of the flow through McNary Pool during the period of extremely low flow (80,000 cfs). This rate of withdrawal would not change water temperature in the McNary Pool, surface elevations, or affect flow or spill management at McNary Dam.”

Further, at page 59 the original order states:
“Moreover, the rate of water withdrawal during operation of the facility is so low that it is reasonably expected that operation of the facility would not impact aquatic habitat or change the amount of habitat available for fish species.”

The original order addressed the impact on salmon passage of the peak water withdrawal:

“The two Chinook salmon species, listed as threatened by ODFW, migrate past the site of the facility from May through June when the spring flows [in the Columbia River] average between 313,000 and 399,000 cfs. Even in very low water years, spring flows are seldom below 200,000 to 220,000 cfs which are recommended for fish passage. The withdrawal of 4.2 to 5.8 cfs of water during the operation of the facility would not appreciably reduce the likelihood of salmon passage.”

The Council finds that the request for this amendment does not change the conclusions it reached in its original order regarding threatened and endangered species.

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

**E.3.4 Scenic and Aesthetic Standard, OAR 345-22-080**

The Council amended the scenic and aesthetic standard effective November 10, 1994. This standard requires that the Council find that “the design, construction, operation and retirement of the proposed facility, taking into account mitigation, is not likely to result in significant adverse impact to scenic and aesthetic values identified as significant or important in the applicable federal land management plans or the local land use plan for the site or its vicinity.” The revised standard changed the required finding for issuance of a site certificate from “will not result in significant adverse impact to scenic and aesthetic values...” to “is not likely to result in significant adverse impact to scenic and aesthetic values...”

**Discussion.** The pipelines to Lamb-Weston would be the only new structures associated with this requested amendment. The Council finds the underground pipelines would not result in a significant adverse impact to scenic and aesthetic values.

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

**E.3.5 Historic, Cultural and Archeological Resources Standard, 345-22-090**

The Council amended the historic, cultural and archeological resources standard November 10, 1994. This standard requires that the Council find that “the design, construction, operation and retirement of the facility, taking into account mitigation, is not likely to result in significant adverse impacts to:
“(1) Historic, cultural or archaeological resources that have been listed on, or would likely be listed on the National Register of Historic Places;

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

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

The standard now requires the Council to apply the standard to resources that are listed on or would likely be listed on the National Register of Historic Places, whereas previously the standard applied to listed sites or sites determined eligible for listing by the State Historic Preservation Office. The revised standard also changes the required finding for issuance of a site certificate from “will not result in significant adverse impacts...” to “is not likely to result in significant adverse impacts....”

Discussion. As discussed in Exhibit T to the Application for Site Certificate, Heritage Research Associates, Inc., surveyed the energy facility site in 1992 to determine the presence of historical, cultural, or archaeological resources. The survey covered the area on the energy facility site that would be disturbed under the proposed amendment. As indicated in the original order, the survey found no such resources at the energy facility site (see pages 62 and 63).

Furthermore, the Holders must also comply with Conditions 1, 2 and 3 under the “Historic, Cultural and Archaeological Standard” of the Amended Site Certificate (see pages 11 and 12). Those conditions require that the Holders consult with the Confederated Tribes of the Umatilla Indian Reservation (CTUIR) before construction; notify the CTUIR before starting construction; provide the opportunity for a CTUIR representative to be available for on-site monitoring during construction activities; and, stop work in the immediate area of any cultural resources discovered during construction or construction-related activities.

Therefore, the Council finds that it is not likely that construction of the underground waste water pipelines (the only new construction associated with this amendment request) would result in significant adverse impacts to historic, cultural or archaeological resources, or to archaeological objects or archaeological sites as defined by the relevant statutes.

Conclusion. The Council finds that HGP meets the historic, cultural, and archeological resources standard, OAR 345-22-090.

E.3.6 Recreation Standard, OAR 345-22-100

The Council amended the recreation standard effective November 10, 1994. This standard requires that the Council find that "design, construction and operation of a facility, taking into account mitigation, is not likely to result in a significant adverse
impact to important recreational opportunities in the impact area. Factors which will be considered in judging the importance of a recreational opportunity include:

“(1) Any special designation or management of the location,
“(2) The degree of demand
“(3) Uniqueness
“(4) Outstanding or unusual qualities
“(5) Availability or rareness, and
“(6) Irreplaceability or irretrievability of the opportunity.”

The revisions changed the required finding for issuance of a site certificate from “will not result in a significant adverse impact...” to “is not likely to result in a significant adverse impact....”

Discussion. The only new structures associated with this amendment request are the underground pipelines from the energy facility to Lamb-Weston. The pipelines would be located entirely on private property zoned for industrial use. The Council finds that the requested amendment is not likely to result in a significant adverse impact to important recreational opportunities.

Conclusion. The Council finds that HGP meets the recreation standard, OAR 345-22-100.

E.3.7 Socio-Economic Impacts Standard, OAR 345-22-110

The Council amended the socio-economic impacts standard effective November 10, 1994. This standard requires the Council to find “that the construction and operation of the facility, taking into account mitigation, is not likely to result in significant adverse impact to the ability of communities within the study area to provide the following governmental services: sewers and sewage treatment, water, stormwater drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools."

The revised standard changes the required finding for issuance of a site certificate from “will not result in significant adverse impact...” to “is not likely to result in significant adverse impact....” The revised standard also deleted libraries from the list of governmental services that should not be impacted, while adding housing and traffic safety.

Discussion. The requested amendment would authorize the construction and operation of underground waste water pipelines between the energy facility site and Lamb-Weston. The discharge of process waste water to the Lamb-Weston Process Water System, with the existing zero discharge system as a backup, is not expected to affect the number of permanent employees at the energy facility or affect the provision of any governmental services. HGP states the pipelines will be constructed to the extent possible by local contractors and workers. HGP anticipates that fewer than 25 workers will be required to construct the pipelines.
The original order found that this standard was met with respect to the initial construction of the energy facility, which was expected to “engage about 270-450 workers, about one-half of whom may be drawn from the regional labor pool” (see page 65). The Council finds that any socio-economic impact of 25 workers constructing the short underground pipelines will be substantially less than the impact of the original facility construction and within the impacts of its original findings regarding socio-economic impacts.

**Conclusion.** The Council finds that HGP meets the socio-economic impacts standard, OAR 345-22-110.

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**E.3.8 Waste Minimization Standard, OAR 345-22-120**

The Council amended the waste minimization standard effective November 10, 1994. This standard requires an applicant, “to the extent reasonably practicable...[to] minimize generation of solid waste and wastewater in the construction and operation of the facility, and when solid waste or wastewater is generated, recycle and reuse such wastes. [In addition,] to the extent reasonably practicable, the accumulation, storage, disposal and transportation of waste generated by the construction and operation of the facility must have minimal adverse impacts on surrounding and adjacent areas.”

The revisions changed the required finding for issuance of a site certificate from “the applicant shall reduce generation of solid waste...” to “the applicant shall minimize generation of solid waste....” The revisions also required that, to the extent reasonably practicable, the accumulation, storage, disposal and transportation of facility generated waste have minimal adverse impact on surrounding and adjacent areas.

**Discussion.** The discharge of the energy facility’s process waste water to the Lamb-Weston Process Water System will enable the beneficial reuse of process waste water for potato wash water and irrigation water. Process waste water will be transported to Lamb-Weston in underground pipelines for reuse as potato wash water and irrigation water. The Holders must comply with the waste minimization conditions of the Amended Site Certificate, as applicable to the construction and operation of the waste water pipelines (see pages 12-13). Furthermore, the Holders recommend the Council add the following condition under the “Waste Minimization Standard” at pages 12-13 of the amended site certificate, as discussed in Section D.2.3, above:

(5) Wastewater conveyed from the energy facility to Lamb-Weston for potato wash and irrigation use shall comply with all applicable water quality parameters of Lamb-Weston’s Water Pollution Control Facilities permit.

**Conclusion.** The Council find that HGP meets the waste minimization standard, OAR 345-22-120.

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**E.3.9 Retirement Standard, OAR 345-22-130**
The Council last revised the retirement standard effective November 16, 1995. The standard requires the Council find that "the site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following facility retirement."

Discussion. Installation of underground water pipelines will not create a hazardous condition that would affect the Holders’ ability to retire the facility. The Council finds that installation of underground water pipelines on the industrial property should not affect the Holders’ ability to retire the facility.

Conclusion. The Council finds that HGP meets the retirement standard, OAR 345-22-130.

E.4 Other Standards

E.4.1 Noise OAR 340-35-035(1)(b)(B)

The Council applies and enforces the DEQ’s noise standards for energy facilities under its jurisdiction. The standard for noise has not changed since the Council issued the original order.

The DEQ noise standard, OAR 340-35-035 (1)(b)(B), has two elements. The first element requires that industrial noise sources not increase the noise level by more than 10 dB above existing ambient noise levels. This maximum increase clause is known as the "ambient degradation rule." The second element limits the maximum noise levels that may be caused by the noise source, as measured at noise sensitive properties. The limits allow a moderately higher level of noise in the daytime than at night.

Discussion. The requested amendment would not change the operation of the energy facility in a manner that would have an impact on noise emissions. Although some noise would be generated during the construction of the energy facility, construction noise is not subject to the standards of OAR 340-35-035. The Holders must comply with the existing conditions of the amended site certificate regarding noise, including the requirement to “consult with Umatilla County and the City of Umatilla and with neighbors to the energy facility to minimize the impacts of construction noise.”

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

E.4.2 Carbon Dioxide Emissions Standard

On June 26, 1997, the governor signed HB 3283 into law. It is effective on that date. This legislation amends ORS 469.503. That statute now states:

"In order to issue a site certificate, the Energy Facility Siting Council shall determine that the preponderance of the evidence on the record supports the following conclusions:

..."
(2) If the energy facility is a fossil-fueled power plant, the energy facility complies with any applicable carbon dioxide emissions standard adopted by the council or enacted by statute."

Discussion. The modifications associated with this proposed amendment will have no impact on the amount of carbon dioxide emitted by the facility.

Conclusion. The Council finds that the Holders’ proposed amendment does not affect the carbon dioxide emissions standard.
F. Conclusions

The Council finds that the actions in the Holders' request are consistent with current Council rules, with other applicable statutes and rules, and with state wide land use planning goals and would not cause a significant adverse impact to public health and safety or the environment. In preparing this proposed order, The Council has limited its consideration to the effects that may be produced by the proposed change to the facility described in the Holders' request for amendment to discharge its process waste water to Lamb-Weston, Inc., dated May 16, 1997. In considering those effects, the Council has reviewed state statutes, administrative rules, and local government ordinances.

Based on the above findings, the Council concludes that it will amend the Site Certificate for the Hermiston Generating Project as the Holders request.

FINAL ORDER

Based on the above findings of fact, discussions and conclusions of law, the Energy Facility Siting Council determines that it shall approve amendment request number four and that the chairperson of the Council shall execute the site certificate amendment in the form of the "Thermal Power Plant Second Amended Site Certificate for the Hermiston Generating Project," which includes Amendments No. 1 (August 12, 1994), No. 2 (May 10, 1996), No. 3, Partial Assignment (July 23, 1996), and No. 4 (August 14, 1997). The "Thermal Power Plant Second Amended Site Certificate for the Hermiston Generating Project" is attached to this order and is incorporated by reference into this order.

Issued this twenty-eighth day of August, 1997.

Terry Edvalson, Chair
Energy Facility Siting Council

Notice of the Right to Appeal

You have the right to appeal this order to the Oregon Supreme Court pursuant to 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 a petition for judicial review within the 60-day time period, you lose your right to appeal.