

1 The energy facility currently uses a zero discharge system to process its waste
2 water and returns a portion of it to its recirculating cooling water system. The site
3 certificate holders propose developing an alternate method for reuse of the energy
4 facility's process waste water. They propose to discharge the energy facility's process
5 waste water to the Lamb-Weston Process Water System where Lamb-Weston would use
6 the water to wash potatoes and Madison Farms would use it for crop irrigation.

7
8 The energy facility site is located adjacent to the Lamb-Weston potato processing
9 plant, which it supplies with process steam. The Lamb-Weston plant operates a potato
10 wash system to clean potatoes prior to processing them into a variety of food products.
11 This wash stage removes dirt from the potato skins. Lamb-Weston disposes of water
12 from the potato wash process by land application for crop irrigation under a Water
13 Pollution Control Facilities (WPCF) Permit issued to Lamb-Weston by the Department of
14 Environmental Quality (DEQ).

15
16 In this order, all references to the "original order" are to the Final Order in the
17 Matter of the Application Hermiston Generating Company for a Site Certificate, which
18 the Council issued March 11, 1994. Further, all references to the "amended site
19 certificate" are to the "Thermal Power Plant Amended Site Certificate for the Hermiston
20 Generating Project," issued by the Council on July 23, 1996.

21 **B. Procedural History**

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

23
24 **B.1.2 The Holders' Request.** The Holders submitted their request for amendment
25 number four to the Council on May 16, 1997.

26
27 **B.1.3 Review by Other Agencies, Local Governments and Tribes.** OOE, pursuant to
28 OAR 345-27-070(1), identified potentially affected agencies, local governments and
29 tribes and asked them to review the request for amendment. OOE mailed a copy of the
30 amendment request along with a review report form on May 22, 1997 to those agencies,
31 local governments and tribes and asked them to reply by June 20, 1997.

32
33
34
35 The reviewing agencies, local governments and tribes are the Oregon Department
36 of Geology and Mineral Industries (DOGAMI); the Oregon Department of Fish and
37 Wildlife (ODFW); the Division of State Lands (DSL); the Department of Agriculture
38 (ODA); the Department of Land Conservation and Development (DLCD); the Water
39 Resources Department (WRD); the Department of Parks and Recreation (ODPR); the
40 State Historic Preservation Office (SHPO); the Department of Transportation (ODOT),
41 the Department of Environmental Quality (DEQ), the Office of State Fire Marshall, the
42 Oregon Public Utilities Commission (OPUC), the Building Codes Division (BCD), the
43 Department of Forestry (ODF), the Northwest Power Planning Council (NWPPC), the
44 Cities of Hermiston, Stanfield, Umatilla, Echo, and Irrigon, Umatilla County, the
45 Confederated Tribes of the Umatilla Indian Reservation, and the Confederated Tribes of
46 Warm Springs.

1
2 **B.1.3.1 Replies**

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

7
8 ODFW raised a question about whether there would be an increase in the number
9 of acres put into agricultural production as a result of Madison Farms accepting
10 additional process waste water from HGP via Lamb-Weston. Once HGP clarified that
11 the process waste water would be applied to land already in agricultural production,
12 ODFW had no objections.

13
14 SHPO commented that it had no concerns about the proposal unless cultural
15 resources are found during monitoring by the tribes of the waste water pipeline
16 construction.

17
18 State Fire Marshall, District 11, raised a concern about the facility's ability to
19 maintain the availability of fire fighting water in the cooling tower ponds after the
20 implementation of the proposal. HGP clarified that its proposal would have no impact on
21 the volume of cooling tower water available for fire protection. The State Fire Marshall
22 indicated that HGP's explanation had satisfied its concerns.

23
24 The Umatilla County Planning Department stated that it had no comments on the
25 proposed amendment, but noted that HGP would have to obtain a zoning permit for
26 construction on new water pipelines. This is similar to a building permit, rather than
27 being a land use decision that requires public process. The County issues the permit
28 over-the-counter with a half-page application form. Such permits are already covered
29 under the Organizational, Managerial and Technical Standard condition 1, page 9, of the
30 amended site certificate. This permit is a design issue outside the Council's jurisdiction
31 per ORS 469.401(4).

32
33 WRD notified OE that HGP's process waste water qualifies as reclaimed water
34 under HB 2095, passed by the 1997 Oregon Legislature. Therefore, once the law
35 becomes effective on October 4, 1997, neither HGP nor Lamb-Weston would need an
36 additional water right permit for HGP to discharge the waste water as it proposed in its
37 amendment. The party intending to use the reclaimed water would have to file
38 information with WRD about its intended use, but this is not a matter requiring a WRD
39 permit. Prior to the law taking effect, Lamb-Weston would need an additional or
40 amended water right to pass HGP waste water through its system without first using it for
41 potato washing. The circumstances under which this situation could occur are unlikely,
42 as described in section E.1.1.2(b). However, instead of having to apply for an additional
43 water right permit, HGP would have recourse of using its existing zero-discharge system
44 until the law takes effect.

45
46 No other agencies, local governments, or tribes commented.

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

9
10 **B.1.5 Proposed Order.** OOE issued its proposed order June 27, 1997.

11
12 **B.1.6 Notice.** On June 27, 1997, OOE mailed notice of the proposed order to the
13 Council’s general mailing list, persons on the Council’s mailing list for the Holders’ first
14 site certificate proceeding, and the updated adjacent property owners list, pursuant to
15 OAR 345-27-070(2). The notice set a deadline for public comments and requests for a
16 contested case of July 28, 1997.

17
18 **B.1.7. Public Comments on Proposed Order.** The comment period closed at 5:00 p.m.
19 on July 28, 1997. OOE received no written comments on the proposed order nor requests
20 for a contested case during the 30-day comment period pursuant to OAR 345-27-070(3).

21
22 **B.1.8. Final Order.** Following the close of the public comment period, OOE prepared a
23 final order for the Council’s consideration at its August 14 and 15, 1997 meeting.

24
25 **B.1.9 Notice of Hearing on Final Order.** OOE provided notice of the hearing on the
26 final order in the agenda for the Council’s August 14 and 15, 1997 meeting. OOE mailed
27 the agenda notice on August 6, 1997.

28 29 **B.2 Council Review Steps**

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

37
38 **B.2.2. Public Hearing on Final Order.** The Council conducted a public hearing on the
39 Holders’ request for an amendment on August 14, 1997, pursuant to OAR 345-27-070(5).
40 On that date, the Council voted to grant the request for the amendment.

41 42 **C. General Findings of Fact Related to the Request for Amendment**

43 44 **C.1 Proposed Modification**

45 The Holders propose developing an alternate method for reuse of the energy
46 facility’s process waste water. The energy facility’s process waste water includes:

1 cooling tower blowdown, inlet raw water filter backflush, and inlet raw water clarifier
2 blowdown. HGP uses Food and Drug Administration (FDA)-approved chemicals in the
3 energy facility's water treatment regimen. The waste water produced by the energy
4 facility contains elevated levels of dissolved solids and suspended solids, which are
5 measured as Total Dissolved Solids (TDS) and Total Suspended Solids (TSS),
6 respectively.

7
8 The energy facility currently uses a zero discharge system to process this waste
9 water and returns a portion of it to the recirculating cooling water system. The proposed
10 alternate method is to discharge the energy facility's process waste water to the Lamb-
11 Weston Process Water System where Lamb-Weston would use the water to wash
12 potatoes and Madison Farms would use it for crop irrigation. Upon Council approval of
13 this amendment, HGP would make discharging to the Lamb-Weston Process Water
14 System the energy facility's primary method for disposal of its process waste water.
15 HGP would place the zero discharge system in cold standby status and retain it as a back-
16 up method.

17 18 **C.2 Lamb-Weston Process Water System**

19 20 **C.2.1 Potato Wash System**

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

26
27 The energy facility's process waste water can provide 293 gpm, on an estimated
28 average annual basis, to the potato wash system assuming 100 percent dispatch. This
29 could reduce the amount of well water used by Lamb-Weston about 16 percent when the
30 potato wash system is using the process waste water.

31 32 **C.2.2 Land Application System**

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

41
42 The land application system is designed for a maximum delivery of waste potato
43 wash water to Madison Farms' property of 3,000 gallons per minute (gpm). The current
44 average flow of waste potato wash water to Madison Farms' fields is 1,776 gpm. Under
45 average annual conditions, only 59 percent of the capacity is used. There are peak
46 periods when use is higher. However, in all cases, the land application system has the

1 capacity and flexibility to accommodate the energy facility’s process waste water
2 discharge.

3
4 There are issues related to how the use of HGP’s process waste water is affected
5 by or exempt from state water law. Those are discussed in section E.1.1.2(b) below.

6 7 **C.2.3 Lamb-Weston Settling Bays**

8 Lamb-Weston operates three settling bays to remove the larger suspended solids
9 from its potato wash process. Each has a capacity of 44,888 gallons. Lamb-Weston uses
10 one bay at a time on a rotating basis. Water flows into the active bay at a constant rate of
11 200 gpm. The retention time in the bay is about four hours. When the suspended solid
12 loading has been sufficiently reduced, the water enters the reuse basin and is used in the
13 potato wash system.

14
15 The energy facility’s raw water clarifier produces process waste water at a rate of
16 approximately 3 gpm on an average annual basis. Flows can be as high as 40 gpm on an
17 average hourly basis. This process waste water contains elevated levels of suspended
18 solids. The energy facility’s raw water clarifier blowdown will flow to the active settling
19 bay for treatment before it enters the Lamb-Weston Process Water System.

20
21 Two other methods are available when peak hourly flows are too high for the
22 active settling bay to accommodate them. The first is to use the energy facility’s raw
23 water clarifier filter press to remove suspended solids and return the water to the energy
24 facility’s cooling water system. The second is to send the process waste water to Lamb-
25 Weston’s process water clarifier from which it would go to the land application system.
26 Under all operating conditions, the three alternative methods provide enough capacity
27 and flexibility to accommodate the energy facility’s raw water clarifier blowdown
28 discharge requirement.

29 30 **C.3 Proposed Modification to Deliver the Energy Facility’s Process Waste Water 31 to the Lamb-Weston Process Water System**

32 33 **C.3.1 Additional Supporting Facilities**

34 In order to connect with the Lamb-Weston Process Water System, new related
35 and supporting facilities are required. Therefore, the Holders request approval to
36 construct the following related and supporting facilities:

- 37
38 1. A 0.35-mile, 6-inch diameter pipe between the energy facility’s cooling tower
39 basins and two connection points, one upstream and one downstream of the
40 potato wash system, to deliver the energy facility’s process waste water to the
41 Lamb-Weston Process Water System.
- 42
43 2. A 0.25 mile, 3-inch diameter pipe between the energy facility’s raw water
44 clarifier and the three settling bays to deliver raw water clarifier blowdown to
45 the Lamb-Weston settling bays. The pipeline will have a manifold to allow
46 switching between bays. The pipeline can also be connected to the Lamb-

1 Weston Process Water System downstream of the potato wash to allow
2 process waste water to be delivered to Lamb-Weston's process water clarifier
3 from which it would go to the land application system.
4

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

10 **C.3.2 Modification of WPCF No. 101326 to Discharge the Energy Facility's Process** 11 **Waste Water to the Lamb-Weston Process Water System**

12 Connection to the Lamb-Weston Process Water System and discharge of the
13 energy facility's process waste water to this system requires modification of Lamb-
14 Weston's WPCF Permit No. 101326. This permit, which DEQ issued on
15 October 10, 1995, regulates the operation of the land application system and provides
16 monitoring and reporting requirements to assure compliance with the permit conditions.
17 Lamb-Weston filed an application with DEQ to modify its WPCF permit, dated May 23,
18 1997, consistent with this request for amendment. DEQ received Lamb-Weston's request
19 on June 5, 1997.
20

21 **C.3.3 Energy Facility Operational Changes Resulting from the Proposed** 22 **Modification**

23 Water inflows to the energy facility will increase about 178 gpm under summer
24 conditions and 336 gpm under winter conditions to replace the process water make-up
25 currently supplied by the zero discharge system. During summer conditions inflows will
26 increase from 2,153 gpm to 2,331 gpm and during winter conditions from 1,558 gpm to
27 1,894 gpm. These increases are within the 2,600 gpm peak use that HGP originally
28 proposed and the Council evaluated in its original order (see pages 23 and 27).
29

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

31 The energy facility's process waste water contains elevated levels of TDS, which
32 are the result of concentration of Columbia River water by evaporation in the energy
33 facility's cooling towers. Based upon cycling studies using Columbia River water, TDS
34 levels in the energy facility's process waste water that is discharged to the Lamb-Weston
35 Process Water System will be between 783 ppm and 1,193 ppm, depending upon
36 meteorological and operating conditions. The expected annual average TDS level, based
37 on the results of the cycling study, is 990 ppm.
38

39 The energy facility's raw water clarifier blowdown contains high levels of
40 suspended solids, which are also derived from constituents in Columbia River water.
41 Based upon an expected suspended solid concentration of 3 percent, TSS levels in raw
42 water clarifier blowdown discharged to the Lamb-Weston settling bays are expected to be
43 31,303 ppm.
44

45 **D. Amendments to Amended Site Certificate**

1 The Holders request the following additional amendments to the amended site
2 certificate to allow them to construct and operate the proposed land application discharge
3 system. OOE recommendations follow each requested amendment. OOE
4 recommendations show modifications to the amended site certificate conditions as
5 strikeouts and underlines. The Council finds these amendments are necessary to
6 construct and operate the proposed system.

7 8 **D.1 Revisions to Amended Site Certificate Conditions**

9
10 **D.1.1** The Holders request that the Council revise condition I.A., page 1, line 31, as
11 follows:

12
13 “...As used in this Site Certificate, the “application for site certificate” or the
14 ASC, includes those changes and/or additions to the Facility described in: (a)
15 Holders’ Request for Amendment No. 1, dated June 3, 1994, attached to the First
16 amendment [sic] as Exhibit 1; (b) in Holders’ Petition to Apply Subsequent Rules
17 and Request for Amendment No. 2, dated January 19, 1996; (c) Holder’s Request
18 for Partial Assignment, dated April 26, 1996; and (d) Holders’ Request for
19 Amendment No. 3, dated May 16, 1997. The facts, reasoning, conclusions and
20 conditions relied on for approval are set out in EFSC’s final orders dated March
21 11, 1994, August 12, 1994, May 10, 1996, July 23, 1996 and [month/day], 1997,
22 which by this reference are incorporated herein.”

23
24 OOE recommends the Council adopt this amendment, as modified below:

25
26 “...As used in this Site Certificate, the “application for site certificate” or the
27 ASC, includes those changes and/or additions to the Facility described in: (a)
28 Holders’ Request for Amendment No. 1, dated June 3, 1994, attached to the First
29 Amendment as Exhibit 1; (b) in Holders’ Petition to Apply Subsequent Rules and
30 Request for Amendment No. 2, dated January 19, 1996; ~~and~~ (c) Holder’s Request
31 for Partial Assignment, dated April 26, 1996; and (d) Holders’ Request for
32 Amendment dated May 16, 1997. The facts, reasoning, conclusions and
33 conditions relied on for approval are set out in EFSC’s final orders dated
34 March 11, 1994, August 12, 1994, May 10, 1996, ~~and~~ July 23, 1996, and
35 August 14, 1997, which by this reference are incorporated herein.”

36
37 The Council adopts this amendment as recommended by OOE.

38
39 **D.1.2** The Holders request that the Council revise condition II.B.1., page 3, line 24, as
40 follows:

41
42 “...Facilities common to both units include a maintenance,[sic] warehouse, a
43 control/administration building, pipelines connecting to Lamb Weston’s process
44 water system, backup zero discharge facilities, stormwater detention facilities,
45 paved roads and a parking area...”

46

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

2

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

7

8 The Council adopts this amendment as recommended by OOE.

9

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

13

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

16

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

20

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

26

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

31 The Council adopts these amendments as recommended by OOE.

32

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

36

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

46

1 OOE recommends the Council adopt this amendment, as modified below:
2

3 “(1) Holder shall construct and operate a zero discharge system as described on
4 pages B-12.a.2 through B-14.a.2 of the ASC, as amended by the “Amendment to
5 Application for Site Certificate” dated December 24, 1993 (at pages 1 and 4), ~~and~~
6 as further amended by the “Request for Amendment” at pages 6-8, submitted on
7 June 3, 1994, and as further amended by the “Request for Amendment” dated
8 May 16, 1997. The zero discharge system shall be a reserve backup system. The
9 primary system for disposing of process waste water shall be through reuse as
10 potato wash water and irrigation water in accordance with the Lamb-Weston
11 Water Pollution Control Facilities permit, as described in the Holders’ “Request
12 for Amendment,” dated May 16, 1997.”
13

14 The Council adopts this amendment as recommended by OOE.
15

16 **D.2. Additional Amendments to the Site Certificate**

17
18 **D.2.1** The Holders request that the Council add the following condition under the
19 “Organizational, Managerial and Technical Expertise Standard, ” page 9:
20

21 Prior to commencing construction of the process waste water discharge pipelines
22 to Lamb Weston, Holders shall demonstrate that DEQ has approved an
23 amendment to Lamb Weston’s Water Pollution Control Facilities (WPCF) permit
24 allowing Lamb Weston to irrigate with process waste water received from the
25 energy facility.
26

27 OOE recommends the Council adopt this amendment, as modified below:
28

29 (4) Prior to commencing construction of the process waste water discharge
30 pipelines to Lamb-Weston, the Holders shall demonstrate that DEQ has approved
31 an amendment to Lamb-Weston’s Water Pollution Control Facilities permit
32 allowing Lamb-Weston to use process waste water received from the energy
33 facility for irrigation.
34

35 The Council adopts this amendment as recommended by OOE.
36

37 **D.2.2** The Holders request that the Council add the following condition under the
38 “Organizational, Managerial and Technical Expertise Standard,” page 9:
39

40 Prior to commencing construction of the waste water pipelines to Lamb Weston,
41 Holders shall have a contract or other agreement with Lamb Weston to accept and
42 dispose of the energy facility’s process waste water.
43

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

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

4
5 The Council adopts this amendment as recommended by OOE.

6
7 **D.2.3** The Holders request that the Council add the following condition under the
8 “Waste Minimization Standard,” pages 12 and 13:

9
10 Wastewater conveyed from the energy facility to Lamb Weston for potato wash
11 and irrigation use shall comply with all applicable water quality parameters of
12 Lamb Weston’s WPCF permit.

13
14 OOE recommends the Council adopt this amendment, as modified below:

15
16 (5) Wastewater conveyed from the energy facility to Lamb-Weston for potato
17 wash and irrigation use shall comply with all applicable water quality parameters
18 of Lamb-Weston’s Water Pollution Control Facilities permit.

19
20 The Council adopts this amendment as recommended by OOE.

21
22 **E. Compliance with Council Standards**

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

24
25 “The conditions of this Site Certificate may not be changed except as provided in
26 OAR 345-27-050 through OAR 345-27-080, and 345-27-095 (November
27 1995)...”

28
29 OAR 345-27-070(6) sets forth the Council’s general standard for review of a
30 request by a site certificate holder for an amendment:

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

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

41
42 **E.1 Standards Relating to the Applicant**

43

1 **E.1.1 Organizational, Managerial and Technical Expertise, OAR 345-22-010**

2 This standard has three paragraphs. One (010(1)) relates to application
3 qualifications and capability and two (010(2) and (3)) relate to third-party permits.
4

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

6 To meet this paragraph of the standard, the Council must find that “the applicant
7 has the organizational, managerial and technical expertise to construct and operate the
8 facility. To conclude that the applicant has the organizational, managerial and technical
9 expertise to construct and operate the proposed facility, the Council must determine that
10 the applicant has a reasonable probability of successful construction and operation of the
11 facility considering the experience of the applicant, the availability of technical expertise
12 to the applicant, and, if the applicant has constructed or operated other facilities, the past
13 performance of the applicant, including but not limited to the number and severity of
14 regulatory citations, in constructing or operating a facility, type of equipment, or process
15 similar to the proposed facility.”
16

17 **Discussion.** This request does not involve any change in the entities responsible
18 for construction or operation of the facility. In particular, the request does not involve a
19 change in the operating agent, U.S. Operating Services Company (USOSC). The
20 proposed amendment involves the construction of pipelines to connect the energy facility
21 to the Lamb-Weston Process Water System and to allow the discharge of process waste
22 water to that existing system. The 1994 original order (see page 53) and the Order
23 Approving Partial Reassignment of HGC Site Certificate determined that the Holders
24 have the necessary expertise to construct and operate the facility. There has been no
25 substantive change to the standard since the Council reviewed the Holders’
26 qualifications.
27

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

31 **Conclusion.** The Council finds that the Holders have satisfied the requirements
32 of OAR 345-22-010(1).
33

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

35 The Council amended the standard for organizational, managerial and technical
36 expertise—third-party services and permits effective November 10, 1994. This
37 paragraph of the standard requires that:
38

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

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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 Lamb-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 Lamb-Weston’s potato processing wastewater. Accordingly, the Department is able to recommend modification of Lamb-Weston’s WPCF permit as requested.” DEQ notes that there will be further administrative procedures to process the request, along with

1 public notice and the opportunity for the public to comment. DEQ reported that it could
2 likely issue the permit by September 1, 1997.

3
4 **Water Rights and Notification.** Under HB 2095, passed by the 1997 Oregon
5 Legislature, beneficial use of the HGP process waste water is exempt for state water right
6 regulation because it is “reclaimed water,” as defined by statute. This law becomes
7 effective on October 4, 1997. That is close to the time that HGP could construct the
8 proposed pipelines, if the Council grants this request. However, there could be a short
9 time that HGP would be discharging waste water to Lamb-Weston before the law takes
10 effect:

11
12 Prior to the law taking effect, Lamb-Weston could receive HGP’s waste water,
13 use it to wash potatoes, and subsequently use it for irrigation. Lamb-Weston
14 holds a water right to use 3.79 cfs of effluent from a food processing plant for
15 irrigation and supplemental irrigation of 808.3 acres. This right is evidenced by
16 certificate of water right no. 67222. Any effluent generated at the Lamb-Weston
17 plant can be used for irrigation on these 808.3 acres regardless of the original
18 water source. Since HGP process waste water, when used for potato washing,
19 will replace other sources of water, its use is covered under this permit. Most of
20 the time, Lamb-Weston will use HGP process waste water for potato washing.
21 Lamb-Weston would only forego use of the HGP process waste water when the
22 potato washing system is down for repair or maintenance.

23
24 However, prior to the law taking effect, Lamb-Weston would need an additional
25 or amended water right to discharge HGP’s waste water through its system
26 without first using it for potato washing. It is unlikely that the circumstance
27 would arise that Lamb-Weston could not use the water because it would only
28 happen if there were an unexpected stoppage of the potato washing equipment.
29 Furthermore, there would only be a few weeks during which this circumstance
30 would matter. In the event that Lamb-Weston could not accept the HGP process
31 water discharge for potato washing, HGP would operate its zero discharge system
32 until the law took effect instead of discharging its process waste water to Lamb-
33 Weston. Therefore, Lamb-Weston would not need to obtain an additional water
34 right.

35
36 The Holders are currently developing a contract with Lamb-Weston for the reuse
37 of the energy facility’s process waste water. Lamb-Weston has expressed its intent to
38 enter into this contract in a timely manner. Therefore, the Council finds that the Holders
39 have a reasonable likelihood of obtaining a contractual arrangement to discharge process
40 waste water to Lamb-Weston, with Lamb-Weston subsequently discharging the process
41 waste water for land application.

42
43 **Conclusion.** The Council finds that HGP meets the requirements of OAR 345-
44 22-010(2) for third-party services and permits.

45

1 **E.1.1.3 Third-Party Services and Permits, OAR 345-22-010(3)**

2 The third paragraph of the standard provides:

3
4 “If any third party named by the applicant does not have the necessary permit or
5 approval at the time the Application for Site Certificate is approved, the Council
6 may require as a condition that the Site Certificate Holder may not commence
7 construction or operation as appropriate until the third-party has obtained the
8 necessary permit or approval and the applicant has a contract or other
9 arrangement for access to the resource or service secured by that permit or
10 approval.”

11
12 **Discussion.** As discussed in Section D of this order, the Holders are proposing,
13 and OOE recommends, to add the following two conditions under the “Organizational,
14 Managerial and Technical Expertise Standard” of the amended site certificate:

15
16 (4) Prior to commencing construction of the process waste water discharge
17 pipelines to Lamb-Weston, the Holders shall demonstrate that DEQ has approved
18 an amendment to Lamb-Weston’s Water Pollution Control Facilities permit
19 allowing Lamb-Weston to use process waste water received from the energy
20 facility for irrigation.

21
22 (5) Prior to commencing construction of the wastewater pipelines to Lamb-
23 Weston, the Holders shall have a contract with Lamb-Weston to accept and
24 dispose of the energy facility’s process waste water.

25
26 **Conclusion.** The Council adopted these two conditions in sections D.2.1 and
27 D.2.2 above. With the addition of these two conditions, the Council finds that Holders
28 meet the requirements of OAR 345-22-010(3).

29
30 **E.1.1.4 Financial Assurance Standard, OAR 345-22-050**

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

35
36 (1) Begins but does not complete construction of the facility; or

37
38 (2) Permanently closes the facility before establishing a financial mechanism or
39 instrument, satisfactory to the Council, that will assure funds will be available to
40 adequately retire the facility and restore the site to a useful, non-hazardous condition.”

41
42 The latest amendment added the phrase “to a useful, non-hazardous condition” to
43 OAR 345-22-050(2).

44
45 **Discussion.** In its original order, pages 54-56, and in its “Order Approving
46 Partial Reassignment of HGC Site Certificate,” the Council concluded that the Holders

1 met this standard. The energy facility is constructed. The only additional construction
2 necessary under the requested amendment is the construction of the underground waste
3 water pipelines from the energy facility to Lamb-Weston. Removal of the pipelines or
4 their retirement in place at the retirement of the facility should not pose an obstacle of
5 restoring the site to a useful, non-hazardous condition. The Council finds that this
6 relatively minor construction does not impact the ability of the Holders to meet the
7 financial assurance standard.

8
9 **Conclusion.** The Council finds that the Holders meet the financial assurance
10 standard, OAR 345-22-050.

11 12 **E.2 Standards Relating to the Site and Structure**

13 14 **E.2.1 Structural Standard, OAR 345-22-020**

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

17
18 "(1) The applicant, through appropriate site specific study, has adequately
19 characterized the site in terms of seismic zone and expected ground response
20 during the maximum credible seismic event; and

21
22 "(2) The facility can be designed, engineered and constructed adequately to avoid
23 potential dangers to human safety presented by seismic hazards affecting the site,
24 as defined in ORS 455.447(1)(d) and including amplification, that are expected to
25 result from all reasonably probable seismic events."

26
27 **Discussion.** Exhibit G to the Application for Site Certificate provides the
28 required characterization of the energy facility site, consistent with the scope of this
29 proposed amendment. That characterization covers the area that would be affected by the
30 proposed amendment. In addition, Bechtel prepared a pre-construction geological survey
31 and submitted it to the Department of Geology and Mineral Industries for peer review
32 pursuant to Condition IV.B(1) of the Site Certificate as amended July 23, 1996. By letter
33 dated August 12, 1994, DOGAMI concluded that if the facility were designed to meet
34 OBC [Oregon Building Code] safety standards, the facility would be adequate to avoid
35 potential dangers presented by seismic hazards affecting the site.

36
37 **Conclusion.** The Council finds that HGP meets the structural standard, OAR
38 345-22-020.

39

1 **E.2.2. Soil Protection Standard, OAR 345-22-022**

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

8
9 **Discussion.** The direct disturbance of soils will be the construction of the
10 pipelines from the energy facility to connect with the Lamb-Weston Process Water
11 System. That disturbance will be temporary and will occur entirely on property currently
12 developed for industrial and utility uses. Moreover, the pipelines will be buried on the
13 energy facility site and beneath paved roads on Lamb-Weston property. They will have a
14 minimum of 4-feet of cover.

15
16 The land application system has been successfully operated by Lamb-Weston and
17 Madison Farms for several years. The addition of the energy facility's process waste
18 water will not increase the quantity of water delivered to the land application system
19 when it is discharged to the Lamb-Weston Process Water System upstream of the potato
20 wash. When the potato wash system is bypassed, it will increase the amount of water
21 delivered to the land application system by about 225 gpm during summer conditions and
22 367 gpm during winter conditions for short periods.

23
24 The Council is concerned with the impact of land application of waste water on
25 soil quality, specifically increased soil salinity and decreased soil productivity. The
26 waste water management plan and the modified WPCF permit will contain measures and
27 conditions to monitor soil salinity and maintain soil productivity. Measures that DEQ
28 requires include controlled leaching to move salts beyond the crop root zone; a
29 monitoring plan to check for salinity levels in soil at various depths; and, monitoring of
30 soil moisture for water balance, proper irrigation scheduling, and for tracing the seasonal
31 movement of the moisture front. Furthermore, DEQ reports that the waste waters can be
32 managed to provide an equivalent manner of environmental protection as is currently
33 provided in the management of Lamb-Weston's potato processing waste water. The
34 Council finds that these measures are sufficient to protect against significant adverse
35 impact to soil quality.

36
37 **Conclusion.** The Council finds that HGP meets the soil protection standard
38 (OAR 345-22-022).

39
40 **E.2.3 Land Use Standard, OAR 345-22-030(2)(a)**

41 The Council renumbered the land use standard requiring local land use approval
42 effective November 10, 1994, but did not amend it in substance. This standard requires
43 that the facility be in compliance with "the statewide planning goal adopted by the Land
44 Conservation and Development Commission." OAR 345-22-030(1)

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

3 (a) The facility has received local land use approval under the
4 acknowledged comprehensive plan and land use regulations of the affected local
5 government, or...”
6

7 **Discussion.** The only new structures associated with the requested amendment
8 are the underground waste water pipelines. The pipelines will be located entirely on land
9 within the land use jurisdiction of Umatilla County on land zoned Light Industrial (LI).
10 Compliance of the energy facility with the conditional use standards applicable to utility
11 facilities in the LI zone is addressed in Exhibit I to the Application for Site Certificate.
12 Findings with respect to those standards are set forth in the original order (see pages
13 36-43). Umatilla County has issued a conditional use permit for the energy facility.
14

15 The Umatilla County Planning Department noted that HGP would have to obtain
16 a zoning permit for construction of new water pipelines. This is similar to a building
17 permit. It relates to the design of the facility, rather than being a land use decision
18 relating to siting. The County issues the permit over-the-counter with a half-page
19 application form. It does not require a local public process. Such permits are already
20 covered under the Organizational, Managerial and Technical Standard condition 1, page
21 9, of the amended site certificate. This permit is a design issue outside the Council’s
22 jurisdiction per ORS 469.401(4).
23

24 **Conclusion.** The Council finds that HGP meets the land use standard, OAR 345-
25 22-030.
26

27 **E.3 Standards Relating to the Impacts of Construction, Operation and** 28 **Retirement**

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

30 The Council last amended the protected area standard effective November 16,
31 1995. This standard prohibits the siting of an energy facility in any of the listed protected
32 areas. OAR 345-22-040(1). The standard permits the siting of a facility outside the
33 listed protected areas so long as the Council finds, “taking into account mitigation, the
34 design, construction and operation of the facility...is not likely to result in significant
35 adverse impact" to any of the listed protected areas. The earlier standard required a
36 finding that a facility “will not” result in significant adverse impacts.
37
38

39 **Discussion.** In the original order, the Council found that the energy facility site
40 is not within any of the protected areas (see page 58). The process waste water discharge
41 pipelines between the energy facility and Lamb Weston likewise will not be within a
42 protected area. No sensitive natural resources will be impacted by the construction of the
43 pipelines because construction activity will be confined to either the energy facility site
44 or surfaced areas on Lamb Weston property.
45

1 As discussed in Exhibit J of the Application for Site Certificate for the Hermiston
2 Generating Project (Table J-1), the closest “protected area” to the energy facility site is
3 the Hermiston Agricultural Research and Extension Center, located four miles to the east.
4 In the original order, the Council found that there were no protected areas within four
5 miles of the energy facility site (see page 58). The Council finds that the construction of
6 the underground waste water pipelines will not have a significant adverse impact on the
7 Hermiston Agricultural Research and Extension Center or any other protected area
8 identified in Exhibit J of the Application for Site Certificate.

9
10 **Conclusion.** The Council finds that HGP meets the protected areas standard,
11 OAR 345-22-040,

12 13 **E.3.2 Fish and Wildlife Habitat Standard, OAR 345-22-060**

14 The Council last amended the fish and wildlife habitat standard effective
15 November 16, 1995. For this standard, the Council must find that "the design,
16 construction, operation and retirement of the facility, taking into account mitigation, is
17 consistent with the fish and wildlife mitigation goals and standards of OAR 635-415-
18 030." OAR 635-415-030 describes four categories of habitat in order of their value. The
19 rule then established mitigation goals and corresponding implementation standards for
20 each habitat category.

21
22 **Discussion.** Exhibit P of the Application for Site Certificate addressed fish and
23 wildlife habitat. The original order finds: “Because the portion of the site containing the
24 energy facility is within an industrial area, and not within the flood plain or riparian zone
25 of the Umatilla River, no net loss of habitat units or habitat value is reasonably expected
26 to occur during construction of the energy facility. Operation and retirement of the
27 facility are not expected to affect threatened, endangered, or sensitive species or their
28 habitat.” (See pages 58 and 59.)

29
30 The original order also finds that “...the rate of water withdrawal during operation
31 of the facility is so low that it is reasonably expected that operation of the facility would
32 not impact aquatic habitat or change the amount of habitat available for fish species.”
33 (See page 59.) The increase in the rate of average daily water consumption of the energy
34 facility is within the 5.8 cfs water withdrawal from the Columbia River that the original
35 order anticipated and the allocation that HGP received from the Port of Umatilla. The
36 additional withdrawal does not change the findings and conclusions of the original order
37 with respect to fish and wildlife habitat (see pages 23 and 59).

38
39 The new pipelines would be located entirely within the industrial area discussed
40 in the original order and outside the flood plain or riparian zone of the Umatilla River.
41 Therefore, the design, construction, operation and retirement of the pipelines would result
42 in no net loss of habitat units or habitat value. As discussed in Section E.1.1.2.(a), the
43 disposal of the energy facility’s process waste water to the Lamb Weston Process Water
44 System will not affect the maximum water demand of 5.8 cfs evaluated in the original
45 order. The Council finds that the findings adopted in 1994 with respect to impacts on
46 aquatic and fish habitat apply equally to the requested amendment.

1
2 **Conclusion.** The Council finds that HGP meets the fish and wildlife habitat
3 standard, OAR 345-22-060.
4

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

6 The Council amended the threatened and endangered species standard effective
7 November 10, 1994. This standard requires that the Council find that the design,
8 construction, operation and retirement of the facility, taking into account mitigation be
9 consistent with any applicable conservation program adopted pursuant to ORS
10 496.172(3) or ORS 564.105(3). If no conservation program applies, the facility must not
11 have the potential to reduce significantly the likelihood of the survival or recovery of any
12 threatened or endangered species listed under ORS 496.172(2) or ORS 564.105(2). The
13 standard in place at the time Council issued the original order required a finding, if no
14 conservation program applied, that the facility would not “appreciably” reduce the
15 likelihood of species survival or recovery. These standards relate to the protection of
16 both wildlife and plant species listed as threatened or endangered.
17

18 **Discussion.** This standard relates to the protection of both wildlife and plant
19 species listed as threatened or endangered. As discussed in Exhibit R of the Application
20 for Site Certificate, Woodward Clyde surveyed the energy facility site on foot in 1992.
21 No threatened or endangered species are known to occur at the energy facility site. (See
22 Exhibit R at page R-1.) Therefore, no sensitive natural resources will be impacted by the
23 construction of the pipelines because construction activity will be confined to either the
24 energy facility site or surfaced areas on Lamb-Weston property.
25

26 The Council evaluated the potential impacts of water use on threatened and
27 endangered species in the original order. The proposed amendment will increase current
28 water use, but the increase in the rate of average daily water use of the energy facility is
29 within the 5.8 cfs water withdrawal from the Columbia River that the original order
30 anticipated and the allocation that HGP received from the Port of Umatilla. The
31 additional withdrawal does not change the findings and conclusions reached in the
32 original order.
33

34 The original order at page 23 states:

35
36 “The amount of water required for the operation of the facility represents
37 approximately 0.004 percent of the lowest annual mean discharge of the
38 Columbia River at McNary Dam, and represents about 0.005 percent of the flow
39 through McNary Pool during the period of extremely low flow (80,000 cfs). This
40 rate of withdrawal would not change water temperature in the McNary Pool,
41 surface elevations, or affect flow or spill management at McNary Dam.”
42

43 Further, at page 59 the original order states:
44

1 “Moreover, the rate of water withdrawal during operation of the facility is so low
2 that it is reasonably expected that operation of the facility would not impact
3 aquatic habitat or change the amount of habitat available for fish species.”
4

5 The original order addressed the impact on salmon passage of the peak water
6 withdrawal:
7

8 “The two Chinook salmon species, listed as threatened by ODFW, migrate past
9 the site of the facility from May through June when the spring flows [in the
10 Columbia River] average between 313,000 and 399,000 cfs. Even in very low
11 water years, spring flows are seldom below 200,000 to 220,000 cfs which are
12 recommended for fish passage. The withdrawal of 4.2 to 5.8 cfs of water during
13 the operation of the facility would not appreciably reduce the likelihood of
14 salmon passage.”
15

16 The Council finds that the request for this amendment does not change the
17 conclusions it reached in its original order regarding threatened and endangered species.
18

19 **Conclusion.** The Council finds that HGP meets the threatened and endangered
20 species standard, OAR 345-22-070.
21

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

23 The Council amended the scenic and aesthetic standard effective November 10,
24 1994. This standard requires that the Council find that “the design, construction,
25 operation and retirement of the proposed facility, taking into account mitigation, is not
26 likely to result in significant adverse impact to scenic and aesthetic values identified as
27 significant or important in the applicable federal land management plans or the local land
28 use plan for the site or its vicinity.” The revised standard changed the required finding
29 for issuance of a site certificate from “will not result in significant adverse impact to
30 scenic and aesthetic values...” to “is not likely to result in significant adverse impact to
31 scenic and aesthetic values...”
32

33 **Discussion.** The pipelines to Lamb-Weston would be the only new structures
34 associated with this requested amendment. The Council finds the underground pipelines
35 would not result in a significant adverse impact to scenic and aesthetic values.
36

37 **Conclusion.** The Council finds that HGP meets the scenic and aesthetic values
38 standard, OAR 345-22-080.
39

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

41 The Council amended the historic, cultural and archeological resources standard
42 November 10, 1994. This standard requires that the Council find that “the design,
43 construction, operation and retirement of the facility, taking into account mitigation, is
44 not likely to result in significant adverse impacts to:
45

- 1 “(1) Historic, cultural or archaeological resources that have been listed on, or
2 would likely be listed on the National Register of Historic Places;
3
4 “(2) For a facility on private land, archaeological objects, as defined in ORS
5 358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c);
6 and,
7
8 “(3) For a facility on public land, archaeological sites, as defined in ORS
9 358.905(1)(c).”

10
11 The standard now requires the Council to apply the standard to resources that are
12 listed on or would likely be listed on the National Register of Historic Places, whereas
13 previously the standard applied to listed sites or sites determined eligible for listing by
14 the State Historic Preservation Office. The revised standard also changes the required
15 finding for issuance of a site certificate from “will not result in significant adverse
16 impacts...” to “is not likely to result in significant adverse impacts....”

17
18 **Discussion.** As discussed in Exhibit T to the Application for Site Certificate,
19 Heritage Research Associates, Inc., surveyed the energy facility site in 1992 to determine
20 the presence of historical, cultural, or archaeological resources. The survey covered the
21 area on the energy facility site that would be disturbed under the proposed amendment.
22 As indicated in the original order, the survey found no such resources at the energy
23 facility site (see pages 62 and 63).

24
25 Furthermore, the Holders must also comply with Conditions 1, 2 and 3 under the
26 “Historic, Cultural and Archaeological Standard” of the Amended Site Certificate (see
27 pages 11 and 12). Those conditions require that the Holders consult with the
28 Confederated Tribes of the Umatilla Indian Reservation (CTUIR) before construction;
29 notify the CTUIR before starting construction; provide the opportunity for a CTUIR
30 representative to be available for on-site monitoring during construction activities; and,
31 stop work in the immediate area of any cultural resources discovered during construction
32 or construction-related activities.

33
34 Therefore, the Council finds that it is not likely that construction of the
35 underground waste water pipelines (the only new construction associated with this
36 amendment request) would result in significant adverse impacts to historic, cultural or
37 archaeological resources, or to archaeological objects or archaeological sites as defined
38 by the relevant statutes.

39
40 **Conclusion.** The Council finds that HGP meets the historic, cultural, and
41 archeological resources standard, OAR 345-22-090.

42 43 **E.3.6 Recreation Standard, OAR 345-22-100**

44 The Council amended the recreation standard effective November 10, 1994. This
45 standard requires that the Council find that "design, construction and operation of a
46 facility, taking into account mitigation, is not likely to result in a significant adverse

1 impact to important recreational opportunities in the impact area. Factors which will be
2 considered in judging the importance of a recreational opportunity include:

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

10

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

14

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

20

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

23

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

25 The Council amended the socio-economic impacts standard effective
26 November 10, 1994. This 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
28 significant adverse impact to the ability of communities within the study area to provide
29 the following governmental services: sewers and sewage treatment, water, stormwater
30 drainage, solid waste management, housing, traffic safety, police and fire protection,
31 health care and schools.”

32

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

38

39 **Discussion.** The requested amendment would authorize the construction and
40 operation of underground waste water pipelines between the energy facility site and
41 Lamb-Weston. The discharge of process waste water to the Lamb-Weston Process Water
42 System, with the existing zero discharge system as a backup, is not expected to affect the
43 number of permanent employees at the energy facility or affect the provision of any
44 governmental services. HGP states the pipelines will be constructed to the extent
45 possible by local contractors and workers. HGP anticipates that fewer than 25 workers
46 will be required to construct the pipelines.

1
2 The original order found that this standard was met with respect to the initial
3 construction of the energy facility, which was expected to “engage about 270-450
4 workers, about one-half of whom may be drawn from the regional labor pool” (see page
5 65). The Council finds that any socio-economic impact of 25 workers constructing the
6 short underground pipelines will be substantially less than the impact of the original
7 facility construction and within the impacts of its original findings regarding socio-
8 economic impacts.

9
10 **Conclusion.** The Council finds that HGP meets the socio-economic impacts
11 standard, OAR 345-22-110.

12 13 **E.3.8 Waste Minimization Standard, OAR 345-22-120**

14 The Council amended the waste minimization standard effective November 10,
15 1994. This standard requires an applicant, “to the extent reasonably practicable...[to]
16 minimize generation of solid waste and wastewater in the construction and operation of
17 the facility, and when solid waste or wastewater is generated, recycle and reuse such
18 wastes. [In addition,] to the extent reasonably practicable, the accumulation, storage,
19 disposal and transportation of waste generated by the construction and operation of the
20 facility must have minimal adverse impacts on surrounding and adjacent areas.”

21
22 The revisions changed the required finding for issuance of a site certificate from
23 “the applicant shall reduce generation of solid waste...” to “the applicant shall minimize
24 generation of solid waste....” The revisions also required that, to the extent reasonably
25 practicable, the accumulation, storage, disposal and transportation of facility generated
26 waste have minimal adverse impact on surrounding and adjacent areas.

27
28 **Discussion.** The discharge of the energy facility’s process waste water to the
29 Lamb-Weston Process Water System will enable the beneficial reuse of process waste
30 water for potato wash water and irrigation water. Process waste water will be transported
31 to Lamb-Weston in underground pipelines for reuse as potato wash water and irrigation
32 water. The Holders must comply with the waste minimization conditions of the
33 Amended Site Certificate, as applicable to the construction and operation of the waste
34 water pipelines (see pages 12-13). Furthermore, the Holders recommend the Council add
35 the following condition under the “Waste Minimization Standard” at pages 12-13 of the
36 amended site certificate, as discussed in Section D.2.3, above:

37
38 (5) Wastewater conveyed from the energy facility to Lamb-Weston for potato
39 wash and irrigation use shall comply with all applicable water quality parameters
40 of Lamb-Weston’s Water Pollution Control Facilities permit.

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

44 45 **E.3.9 Retirement Standard, OAR 345-22-130**

1 The Council last revised the retirement standard effective November 16, 1995.
2 The standard requires the Council find that "the site, taking into account mitigation, can
3 be restored adequately to a useful, non-hazardous condition following facility
4 retirement."
5

6 **Discussion.** Installation of underground water pipelines will not create a
7 hazardous condition that would affect the Holders' ability to retire the facility. The
8 Council finds that installation of underground water pipelines on the industrial property
9 should not affect the Holders' ability to retire the facility.
10

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

14 **E.4 Other Standards**

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

16 The Council applies and enforces the DEQ's noise standards for energy facilities
17 under its jurisdiction. The standard for noise has not changed since the Council issued
18 the original order.
19
20

21 The DEQ noise standard, OAR 340-35-035 (1)(b)(B), has two elements. The first
22 element requires that industrial noise sources not increase the noise level by more than
23 10 dB above existing ambient noise levels. This maximum increase clause is known as
24 the "ambient degradation rule." The second element limits the maximum noise levels
25 that may be caused by the noise source, as measured at noise sensitive properties. The
26 limits allow a moderately higher level of noise in the daytime than at night.
27

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

36 **Conclusion.** The Council finds that HGP meets the noise standard, OAR 340-35-
37 035(1)(b)(B).
38

39 **E.4.2 Carbon Dioxide Emissions Standard**

40 On June 26, 1997, the governor signed HB 3283 into law. It is effective on that
41 date. This legislation amends ORS 469.503. That statute now states:
42

43 "In order to issue a site certificate, the Energy Facility Siting Council
44 shall determine that the preponderance of the evidence on the record
45 supports the following conclusions:
46

...

1 (2) If the energy facility is a fossil-fueled power plant, the energy
2 facility complies with any applicable carbon dioxide emissions standard
3 adopted by the council or enacted by statute."
4

5 **Discussion.** The modifications associated with this proposed amendment will
6 have no impact on the amount of carbon dioxide emitted by the facility.
7

8 **Conclusion.** The Council finds that the Holders' proposed amendment does not
9 affect the carbon dioxide emissions standard.

1 **F. Conclusions**

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

10
11 Based on the above findings, the Council concludes that it will amend the Site
12 Certificate for the Hermiston Generating Project as the Holders request.

13
14 **FINAL ORDER**

15
16 Based on the above findings of fact, discussions and conclusions of law, the
17 Energy Facility Siting Council determines that it shall approve amendment request
18 number four and that the chairperson of the Council shall execute the site certificate
19 amendment in the form of the "Thermal Power Plant Second Amended Site Certificate
20 for the Hermiston Generating Project;" which includes Amendments No. 1 (August 12,
21 1994), No. 2 (May 10, 1996), No. 3, Partial Assignment (July 23, 1996), and No. 4
22 (August 14, 1997). The "Thermal Power Plant Second Amended Site Certificate for the
23 Hermiston Generating Project" is attached to this order and is incorporated by reference
24 into this order.

25
26 Issued this twenty-eighth day of August, 1997.

27
28
29
30
31 

32 Terry Edvalson, Chair
33 Energy Facility Siting Council

34
35 **Notice of the Right to Appeal**

36
37 You have the right to appeal this order to the Oregon Supreme Court pursuant to
38 ORS 469.405. To appeal you must file a petition for judicial review with the Supreme
39 Court within 60 days from the day this order was served on you. If this order was
40 personally delivered to you, the date of service is the date you received this order. If this
41 order was mailed to you, the date of service is the date it was mailed, not the day you
42 received it. If you do not file a petition for judicial review within the 60-day time period,
43 you lose your right to appeal.