**BEFORE THE ENERGY FACILITY SITING COUNCIL**
**OF THE STATE OF OREGON**

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| IN THE MATTER OF THE SITE CERTIFICATE FOR | ) | |
| THE PORT WESTWARD GENERATING PROJECT | ) | FINAL ORDER |
| REQUEST FOR AMENDMENT NO. ONE | ) | |

**Summary**
The Energy Facility Siting Council ("Council") approves this amendment request.

## I. Summary and Background of the Request for Amendment

On September 25, 2003, Portland General Electric Company ("PGE" or the "Certificate Holder") submitted to the Council its Request for First Amendment to the Site Certificate for the Port Westward Generating Project ("PWGP" or the "Project"). PGE proposed to amend the Site Certificate for the Port Westward Generating Project ("Site Certificate") to add a natural gas compression station and a dead-end transmission structure at the energy facility, to increase the number of transformers from four to six, and to switch the location of the settling basin and tanks within the energy facility site. It also proposed to build potable and demineralized water lines, a 13.8 kV backup electricity line, and communications lines between the PGE Beaver Generating Plant and the energy facility. PGE also requested permission to add the option to obtain water for the energy facility from PGE's existing industrial water right. Finally, PGE requested permission to develop only one of the two proposed generating units, or to develop both units of the energy facility in two distinct phases.

The Council issued the Final Order in the Matter of the Application for a Site Certificate for the Port Westward Generating Project ("Final Order;" except in the title of this document and the title of final section) and granted the Site Certificate on November 8, 2002. PGE has not begun construction of the Project.

### A. Name and Address of the Certificate Holder

Portland General Electric Company
121 SW Salmon Street
Portland, OR 97204

The individual responsible for submitting the request:

Arya Behbehani-Divers
Portland General Electric Company
121 SW Salmon Street
3WTC-BR03
Portland, OR 97204
503-464-8141

## B. Description of the Facility

The Council granted the Site Certificate for the facility on November 8, 2002. The facility is a 560 megawatt ("MW") natural-gas-fired, combined-cycle generating facility. The facility will be located in Columbia County, Oregon, about seven miles by road northeast of the City of Clatskanie. PGE has not begun construction of the facility.

## II. Description of the Proposed Amendment

PGE proposed the following changes to the energy facility. Revised Figures B-1 (Attachment 6) and B-2 (Attachment 7) of the amendment request depict the physical changes:

- Expanding the Certificate Holder's water supply options to include PGE's existing industrial water right.

- Adding a natural gas compression station to house electric compressors with 1,000 to 7,000 horsepower total. The compression station building will be about 120 feet long by 60 feet wide by 24 feet high.

- Adding a dead-end transmission structure, which would be constructed prior to or in lieu of the switchyard. The structure will be about 100 feet high.

- Increasing the number of transformers from four to six (or two transformer banks of three each) without changing the overall dimensions of the energy facility; and switching the location of the settling basin and tanks within the energy facility site to facilitate connection to the Port of St. Helens water discharge facility.

> *These items are consistent with the Council's findings and conditions in the Final Order approving the Site Certificate and would not alone trigger a site certificate amendment under OAR 345-027-0050. However, because PGE has proposed other changes that require an amendment, it included these changes in its request and demonstrated compliance with the relevant siting standards.*

- Adding additional related and supporting facilities, including potable and demineralized water lines, a 13.8 kV backup electricity line, and communications lines, all of which will be constructed about 3 feet below ground between the PGE Beaver Generating Plant and the energy facility or the PGE water intake structure. The corridor for the demineralized water line, 13.8 kV distribution line, and the communications lines will be about 1,200 feet long and will follow an existing roadway between the energy facility site and the PGE Beaver Generating Plant. The corridor for the portion of the potable water line between the potable water storage tank and the raw water line corridor will be about 1,700 feet long. The remainder of the potable water line will follow the raw water line corridor to the energy facility site. The

demineralized water line will be about 4" in diameter and the potable water line will be about 2" in diameter.

- Authorizing the Certificate Holder the option of constructing the energy facility in two distinct phases ("Phase 1" and "Phase 2"), in effect constructing one generating unit at a time. The Certificate Holder would construct Phase 1 first, and Phase 1 could stand alone if the Certificate Holder chose not to proceed with Phase 2.

  Revised Figure B-1 (Attachment 6 of the request) illustrates the elements of the facility associated with each phase. As depicted therein, Phase 1 would include, in part, the southernmost generating unit ("Unit 1"), including a combustion turbine generator, heat recovery steam generator, steam generator, one step-up transformer bank, auxiliary transformer, and cooling tower. The Phase 1 elements are depicted in blue in Figure B-1. Phase 1 would also include all of the energy facility components common to the two units and the related or supporting facilities, except the switchyard. The switchyard would be constructed with the northernmost generating unit ("Unit 2") and associated facilities as part of Phase 2. The common elements to be constructed as part of Phase 1 are depicted in pink in Figure B-1 and the Phase 2 elements are depicted in green. Figure B-1 also depicts "treatment areas" in yellow or orange outlines associated with each phase. These are the areas where PGE would install foundations for each phase.

## III. Procedural History

### A. Department of Energy Review Steps

#### 1. The Certificate Holder's Request

PGE submitted the Request for First Amendment to the Site Certificate for the Port Westward Generating Project on September 25, 2003.

PGE notified the Department of Energy ("Department") on October 2, 2003, that the Division of State Lands has issued the Port of St. Helens a removal/fill permit for the Port's wastewater outfall project, including associated piping. PWGP will use the Port's wastewater system as provided in the Site Certificate.

PGE submitted additional information in a letter dated October 20, 2003. That letter clarified terms used in Figure B-1 and requested that the Council strike the term "essentially identical" in the reference to the combustion turbines that may be used in the two units because turbines built at different times may not be identical.

#### 2. Notice to the Site Certificate Holder

On October 8, 2003, the Department mailed notice to PGE, pursuant to OAR 345-027-0070(1)(c), that it would issue a proposed order no later than November 21, 2003.

#### 3. Review by Other Agencies, Local Governments and Tribes

The Department, pursuant to OAR 345-027-0070(1)(a), identified potentially affected agencies, local governments and tribes and asked them to review the request for

amendment. The Department mailed a copy of the amendment request along with a review report form on September 25, 2003, to those agencies, local governments and tribes and asked them to reply by October 17, 2003. The Department sent the request to the following agencies, local governments and tribes:

Department of Geology and Mineral Industries
Division of State Lands
Water Resources Department
State Historic Preservation Office
Office of State Fire Marshall
Building Codes Division
Northwest Power and Conservation Council
Dept. of Land Conservation and Development
City of Astoria
City of Saint Helens
City of Columbia City
Confederated Tribes of the Grand Ronde
Confederated Tribes of the Warm Springs
Confederated Tribes of the Siletz
Department of Fish and Wildlife
Department of Agriculture
Department of Parks and Recreation
Department of Environmental Quality
Public Utilities Commission
Department of Forestry
Department of Transportation
Department of Aviation
City of Rainier
City of Clatskanie
Columbia County
Clatsop County
Chinook Indian Tribe

**4. Agency Replies**

On October 7, 2003, Jerry Sauter, water rights program analyst, Water Resources Department ("WRD"), wrote that WRD has no issues with PGE using water from its existing water right as proposed in the amendment request.

On October 13, 2003, Dennis Griffin, State Historic Preservation Office ("SHPO") Archeologist, requested clarification in Conditions D.11(1) and (3) regarding the obligation of the Certificate Holder to have a qualified archeologist notify and confer with SHPO about all artifacts and cultural materials that might be found during the pre-construction cultural survey or during construction. The Department recommended conditions in Section IV.B. to address the issues that SHPO raised. No other agency or tribe stated objections to the requested amendment or recommended conditions.

**5. Initial Public Notice**

On September 25, 2003, the Department mailed a notice of the request for amendment to all persons on the Council's general mailing list and persons on the Council's special mailing list for the Project, pursuant to OAR 345-027-0070(1)(b). The notice asked for comments to the Department by October 17, 2003.

**6. Public Comments on the Request**

Mr. Paul Langner, property manager for the Port of St. Helens, wrote in support of PGE's amendment request.

In a letter dated October 14, 2003, Mr. Otto Moosburner commented on noise issues related to installing a natural gas compressor at the energy facility site. Mr. Mossburner

lives across the Columbia River in Washington. His residence is identified in the Contested Case Proceedings, the ASC and the Final Order as Site 6.

Mr. Moosburner's residence is 5,700 feet from the energy facility. The closest noise sensitive receptor is 4,780 feet from the energy facility. PGE's noise engineer did his analysis for the request for amendment for the nearer site.

Mr. Moosburner noted in his letter that with the acoustical insulation that PGE's noise consultant used in his analysis the theoretical noise level 10 feet from the compressor building will be 69 dBA and that the analysis showed it would be at an acceptable level 4,780 feet from the building. He then requested that the Council impose two conditions: (1) require independent certification that the Certificate Holder installed the insulation in the building housing the compressor station according to specifications; and (2) require a one-time sound measurement 10 feet from the building when the compressor station is in operation. He noted that the purpose of the sound measurement would be to validate the theoretical value determined by the analysis.

The Council does not adopt the specific conditions that Mr. Moosburner requested. The discussion of Mr. Moosburner's request follows below. However, the Council adds clarifying text to the description of the compressor building to specify that the Certificate Holder provide acoustical insulation in the building. The Council's decision is consistent with the discussion of noise in Section 1.6(b)(iii) and Attachment 4 of PGE's request for amendment.

In response to comments from Mr. Moosburner, the Council clarifies on page 4, Section C.1.a, Major Structures and Equipment, of the proposed Amended Site Certificate that the Certificate Holder will install acoustical insulation in the building that it constructs to house the natural gas compressors. The Council adopts the highlighted language in the following phrase: "***a natural gas metering station; a natural gas compressor station with electric compressors of 1,000 to 7,000 horsepower total, enclosed in a building with acoustical insulation***."

The Council does not adopt the conditions that Mr. Moosburner proposed because they do not relate directly to the rule with which the facility must comply. The Council must find that the energy facility is able to operate within the requirements of OAR 340-035-0035(1)(b)(B)(i). The findings in Section O, below, demonstrate that the energy facility will be able to operate within that rule with the addition of a natural gas compressor in an acoustically-insulated building.

Mr. Moosburner requested that the Council impose conditions that go far beyond the requirements of OAR 340-035-0035(1)(b)(B)(i). He would have the Council require independent certification that the insulation is installed according to specifications. The product specifications of brand-name materials used in individual components of an energy facility do not relate directly to energy facility siting. The installation specifications of

components of a building would fall under the appropriate building code if they are regulated at all.

PGE offered information about several products of the International Cellulose Corporation. It demonstrated that use of such products can attenuate the noise from a compressor building and that with such attenuation the addition of the compressor will not cause the energy facility to exceed the noise requirements of OAR 340-035-0035(1)(b)(B)(i). The Council does not require the Certificate Holder to use those specific products. It requires the Certificate Holder to meet the conditions in Section E.1.a of the Site Certificate.

Likewise, there is no need for separate sound measurements 10 feet from the compressor building to validate theoretical estimates. The nearest sensitive receptor is 4,780 feet from the energy facility. Conditions in Section E.1.a require the Certificate Holder to meet the DEQ noise standard at that site, at Mr. Moosburner's house, and at two other locations. Determining the noise level 10 feet from the compressor building will not confirm whether the energy facility complies with OAR 340-035-0035(1)(b)(B)(i).

**7. Proposed Order**

The Department issued its proposed order on October 21, 2003.

**8. Public Notice of Proposed Order**

On October 21, 2003, the Department mailed a notice of its proposed order to all persons on the Council's general mailing list and persons on the Council's special mailing list for the Project, pursuant to OAR 345-027-0070(1)(b). The notice asked for comments to the Department by November 21, 2003.

**9. Comments on the Proposed Order**

In a letter dated October 27, 2003, to Ms. Janet Prewitt, Assistant Attorney General, Oregon Department of Justice, Mr. Paul Langner, Port of St. Helens, confirmed that the Port supports PGE's request to apply water from Permit 41506 for general industrial use in the area to be developed as the Port Westward Generating Project.

Through verbal communications with the Department, Dennis Griffin, State Historic Preservation Office ("SHPO") Archeologist, requested further clarification in Condition D.11(1) regarding the obligation of the Certificate Holder to have a qualified archeologist notify and confer with SHPO about discoveries during the pre-construction cultural survey and about the responsibility to propose mitigation if the discoveries are significant. The Council modifies that condition in Section IV.B. to address the issue that SHPO raised.

No other agency or tribe stated objections to the proposed order.

The Department received a letter from George and Betty Weldon, dated October 31, 2003, that discussed property issues related to the electrical transmission line corridor. The comments did not relate to the amendment request.

On October 21, 2003, the Department received a letter from Warren Nakkela, a director of the Beaver Drainage Improvement Company, Inc., ("District"). Mr. Nakkela raised issues relating to a levee that is under the approved site of the energy facility. The Department forwarded a copy of the letter to PGE. This is a property issue that PGE will need to resolve with the District prior to beginning construction. The matter does not relate to the amendment request.

### B. Council Review Steps

#### 1. Council Notice

The Department mailed the request for amendment and a memo summarizing the request to the Council on September 25, 2003. On October 22, 2003, the Department mailed the proposed order to the Council and to persons who had requested it. On November 25, 2003, the Department mailed its Recommended Final Order and Recommended First Amended Site Certificate to the Council.

#### 2. Council Action

The Council took action on the amendment request at its regular meeting at St. Helens, Oregon, on December 5, 2003.

## IV. Proposed Changes to Site Certificate

OAR 345-027-0060(1)(d) requires that a Certificate Holder must include in a request for an amendment to a Site Certificate: "The specific language of the site certificate, including affected conditions, that the certificate holder proposes to change, add or delete by an amendment."

### A. Site Certificate Holder's Proposed Changes

PGE proposed changes to specific conditions with additions double-underlined and deletions shown by a strikethrough of the Site Certificate. The changes are summarized below. Attachment 1 to this Order is a "redline" version of the Site Certificate, showing the adopted changes, incorporating Sub-sections IV.A and IV.B.

1. Title Page: PGE proposed changes that reflect the new amendment.

2. Page 1, Section A, Introduction: PGE proposed changes that update the procedural references for the site certificate.

3. Page 2, Section B, Site Certification, New Condition 10: PGE proposed to add a new condition to Section B to clarify that, unless otherwise stated, all conditions of the Site Certificate apply jointly and severally to Phases 1 and 2.

4. Page 3, Section C.1.a, Major Structures and Equipment: PGE proposed to eliminate the phrase "essentially identical" from the description of the two combustion turbine generators and to rely instead on the later reference to "comparable combustion turbines" to describe in general the types of turbines it would employ. This is

consistent with allowing the flexibility of building in two phases, which might result in the use of comparable, but not identical, turbines.

**5.** Page 3, Section C.1.a, Major Structures and Equipment: PGE proposed to change the description of the transformers to increase the number of transformers from four to six (or two transformer banks of three each). This modification will not change the overall dimensions of the energy facility, and there is no change to the number of auxiliary transformers.

**6.** Page 4, Section C.1.a, Major Structures and Equipment: PGE proposed to reference a dead-end transmission structure, which it would construct prior to or in lieu of a switchyard. The dead-end transmission structure will be built in lieu of the switchyard if PGE constructs only Phase 1. If PGE constructs both phases of the energy facility, it would construct the dead-end transmission structure as part of Phase 1 and the switchyard as part of Phase 2.

**7.** Page 4, Section C.1.a, Major Structures and Equipment: PGE proposed to reference a natural gas compressor station with electric compressors with a total of 1,000 to 7,000 horsepower. The Certificate Holder would enclose the compressors completely within the compressor station building, which will have acoustical insulation.

**8.** Page 4, Section C.1.a, Major Structures and Equipment: PGE proposed to include a new paragraph describing the Certificate Holder's option to develop Unit 1 only, or to develop Unit 1 and Unit 2 in two distinct phases. The new paragraph explains which facility components would be constructed with Phase 1. The remaining components would be constructed with Phase 2 if the Certificate Holder pursued construction of Unit 2. (See clarifications in Sub-section B.)

**9.** Page 5, Section C.1.a, Output: PGE proposed to describe the energy facility output on a per unit basis. As described therein, the net electric power output for the energy facility operating as base load with both generating units will be 560 MW, which equals 280 MW per generating unit. With power augmentation, the net output rises to 650 MW, which equals 325 MW per unit.

**10.** Page 5, Section C.1.a, Fuel Use: PGE proposed to describe the energy facility fuel use on a per unit basis. As described therein, the energy facility, with two units combined, will use 4,600 MM Btu per hour of natural gas at full load with the duct burners in operation at the average annual site condition. This equals 2,300 MM Btu per hour per generating unit.

**11.** Page 5, Section C.1.a, Water Use: PGE proposed to expand the water supply options for PWGP to include PGE's existing industrial water right for 11.3 cubic feet per second ("cfs"). PGE's water right (Permit No. 41506) is appurtenant to PGE's 852-acre parcel, which includes the 17.5-acre PWGP energy facility site. The point of diversion for the water right is the existing PGE intake structure for the PGE

Beaver Generating Plant. PGE uses a portion of the water right to supply water to the Beaver Generating Plant. PGE will use the remainder for PWGP, and PGE will obtain any additional water necessary to meet the energy facility's needs pursuant to a contract to use up to 8.3 cfs of the Port of St. Helen's municipal water right.

**12.** Page 6, Section C.1.a, Wastewater: PGE proposed to clarify that the average volume of process blowdown is estimated on a two-unit basis.

**13.** Page 6, Section C.1.b, Natural Gas Pipeline: PGE proposed to reflect the addition of 1,000 to 7,000 compressor horsepower to the energy facility site to maintain 300 to 520 psig gas pressure at the Port Westward Industrial Area with a total capacity of 310 million standard cubic feet/day.

**14.** Page 6, C.1.b, Water Supply Pipeline: PGE proposed to clarify the location of the existing PGE water intake facility, which is the point of diversion for both PGE's industrial water right and the Port's municipal water right.

**15.** Page 7, Section C.1.b, Wastewater Pipeline; and, Page 9, Section C.2.b, Wastewater Pipeline Corridor: PGE proposed to remove the descriptor "reclaimed" from the Wastewater Pipeline and Wastewater Pipeline Corridor headings. As defined in the Oregon Revised Statutes governing water law (ORS 537.131), "reclaimed water" is water that is used for municipal purposes, treated, and then reapplied for a direct beneficial purpose or controlled use. The wastewater to be carried in PGE's wastewater pipeline will not be reapplied for a direct beneficial purpose, but will instead be discharged to the Columbia River after being collected in a settling basin pursuant to the Port of St. Helen's NPDES permit.

**16.** Page 7, Section C.1.b, Utility Lines Between Energy Facility Site and PGE Beaver Generating Plant; and, Page 9, Section C.2.b, Utility Line Corridor Between Energy Facility Site and PGE Beaver Generating Plant: PGE proposed to add new paragraphs describing additional demineralized and potable water lines, a 13.8 kV backup electricity line, and communications lines that the Certificate Holder will install underground between the energy facility and the PGE potable water tank and between the energy facility and the Beaver Generating Plant.

**17.** Page 8, Section C.2.a, The Energy Facility Site: PGE proposed to remove about 1.5 acres from the boundary of the energy facility site. The boundaries of the 17.5-acre site will be delineated from the remainder of PGE's 852-acre parcel by a boundary fence, as depicted on the site plan, Figure B-2 (Attachment 7 to the request). PGE will lease the acreage to be removed from the southern corner of the energy facility site to the Port of St. Helens to house the Port's water outfall system.

**18.** Page 11, Section D.2, Organizational Expertise, Condition 7: PGE proposed to amend the condition requiring the Certificate Holder to enter into a contract with the Port of St. Helens for use of the Port's water right to require PGE to contract for "up

to" 8.3 cfs rather than "at least" 8.3 cfs. This would allow PGE to meet all or a portion of the energy facility's water supply needs by using PGE's existing industrial water right.

**19.** Page 12, Section D.3, Retirement and Financial Assurance, Condition 5: PGE proposed to amend the condition governing bonding to revise the amount of bonding or letter of credit required per phase if the energy facility is developed in phases. This is accomplished by adding a new Condition 5(a) and expanding Condition 5(c).

**20.** Page 13, Section D.3, Retirement and Financial Assurance, Condition 9: PGE proposed to amend the condition governing submission of an independent Phase I Environmental Site Assessment of the energy facility site to clarify that the assessment must be completed within 10 years after the date of commercial operation of Unit 1. In other words, if the energy facility is developed in phases, the Certificate Holder's duty to submit the assessment will be triggered by commercial operation of the first unit even if the second unit begins commercial operation at a later date.

**21.** Page 17, Section D.6, Soil Protection, Condition 1: PGE proposed to amend the general soil protection condition to clarify that Conditions D.6(1) through (6) also apply to retirement of the facility. This addresses the recent amendments to OAR 345-022-0022, which added retirement to the list of activities analyzed in the soil protection standard.

**22.** Page 20, Section D.8, Fish and Wildlife Habitat, Condition 7: PGE proposed to amend the condition requiring relocation of the osprey nest to clarify that the Certificate Holder must relocate the nest only once, prior to construction of Phase 1.

**23.** Page 21, Section D.8, Fish and Wildlife Habitat, Condition 13: PGE proposed to amend the condition requiring execution of a conservation easement to mitigate for impacts to non-native grassland to clarify that the Certificate Holder must execute the easement only once, prior to construction of Phase 1.

**24.** Page 22, Section D.8, Fish and Wildlife Habitat, Condition 22: PGE proposed to amend the condition requiring submission of a summary report to ODFW and the Department identifying the revegetation actions taken by the Certificate Holder to clarify that the Certificate Holder must submit the report within one year after completion of each phase if the Certificate Holder develops the energy facility in phases.

**25.** Page 25, Section D.11, Historic, Cultural, and Archeological Resources, Condition 5: PGE proposed to amend the condition requiring coordination with the Tribes to require the Certificate Holder to notify the Tribes prior to construction of each unit if the Certificate Holder develops the energy facility in phases.

**26.** Page 26, Section D.15, Carbon Dioxide Standard, Condition 1: PGE proposed to revise the reference to the applicable index used to calculate the monetary path payment in 2002 dollars to cross-reference Condition D.3(5), rather than D.3(5)(e), in recognition of the proposed change in the numbering of the Section D.3 conditions.

**27.** Page 32, Section D.15, Carbon Dioxide Standard, New Condition 11: PGE proposed to add a new condition to the set of conditions governing application of the Carbon Dioxide standard to the energy facility. The new condition clarifies that the Certificate Holder may meet the appropriate carbon dioxide emissions standard and monetary path payment requirements on a unit-by-unit basis if the Certificate Holder constructs only Unit 1 (Phase 1), or constructs Units 1 and 2 in two distinct phases (Phases 1 and 2).

**28.** Page 34, Wetlands and Removal/Fill Permit, Condition 1: PGE proposed to amend the condition requiring the Certificate Holder to obtain the removal/fill permit prior to construction of the energy facility to clarify that the Certificate Holder would obtain one permit for the entire facility prior to the construction of Phase 1.

**29.** Page 34-35, Public Health and Safety, Conditions 2, 3, 6, 7, and 8: PGE proposed to amend the Public Health and Safety conditions pertaining to design of the transmission lines to extend the design requirements to include the 13.8 kV backup distribution line.

**30.** Page 35, Water Pollution Control Facilities Permit, Condition 1: PGE proposed to amend the condition requiring the Certificate Holder to obtain a WPCF permit prior to commercial operation of the energy facility to clarify that the Certificate Holder must obtain the permit only once, prior to construction of Phase 1.

**31.** Page 36, Mandatory Conditions, Condition 2: PGE proposed to amend the condition requiring the Certification Holder to submit a legal description of the energy facility site prior to construction to clarify that the Certificate Holder must submit the legal description of the entire site only once, prior to construction of Phase 1.

**32.** Pages 36 and 37, Section F.1, Mandatory Conditions, Conditions 5 and 6: PGE proposed to amend the conditions governing beginning and completing construction to require a report at the beginning and completion of construction of each phase if the Certificate Holder develops the energy facility in phases.

**Discussion.** The discussion in Section V demonstrates that the proposed amendments comply with the Council's standards and other applicable laws and regulations.

## B. Council's Changes

The Council makes certain changes to the Site Certificate to conform other parts of the Site Certificate with the requested amendment, to clarify the intent of conditions, and to use a consistent style.

1. Page 1, Title: Revise Title as follows: First Amended Site Certificate for the Port Westward Generating Project.

2. Page 2, Section B, Site Certification, Condition 10; and page 4 , Section C.1.a, Major Structures and Equipment : The Council clarified that Phase 1 includes all related or supporting facilities.

3. Page 4, Section C.1.a, Major Structures and Equipment: In response to comments from Mr. Otto Moosburner, the Council clarified that the Certificate Holder will use acoustical insulation in the building that it constructs to house the natural gas compressors.

4. Page 4, Section C.1.a, Major Structures and Equipment: PGE's proposal to include a new paragraph describing the Certificate Holder's option to develop Unit 1 only or to develop Unit 1 and Unit 2 in two distinct phases inadvertently left out the option of developing the whole facility at one time, as the Site Certificate currently allows. The Council clarified that it was not PGE's intention to remove the option of building the whole facility at once, so the Council added that clarification to the description.

5. Page 9, Section C.2.a, Utility Line Corridor Between the Energy Facility Site and the PGE Beaver Generating Plant. The Council clarified that the potable water tank is located separately from the Beaver Generating Plant.

6. Page 24. Section D.11, Historic, Cultural and Archeological Resources, Condition 1: At the request of SHPO, the Council modified Condition (1) to ensure that the Certificate Holder reports to SHPO and the Department the recommendations of its qualified archeologist of significance or non-significance of all artifacts or cultural materials discovered in the pre-construction survey. The modifications also authorize SHPO to determine whether any discovered artifacts or cultural materials are significant; and, the modifications require the Certificate Holder to recommend mitigation measures to the Council as appropriate.

7. Page 24. Section D.11, Historic, Cultural and Archeological Resources, Condition 3: At the request of SHPO, the Council modified Condition (3) to require the Certificate Holder to report SHPO and the Department the determination of its qualified archeologist of significance or non-significance of all artifacts or cultural materials found during construction. The modifications also authorize SHPO to determine that any artifacts or cultural materials are significant.

8. Page 33, Section D.15, Carbon Dioxide Standard, Condition 11. The Council modified the proposed condition to clarify its applicability and to simplify it. The original proposal inadvertently referred only to construction activities instead being generally applicable.

9. Identification of the Amendment Number in the Site Certificate: Following its convention, the Council inserted the number of the amendment at the end of each modified condition except where all changes were scrivener's.

10. Scrivener's Changes: The Council approved scrivener's changes to conform the amendments to the style of the First Amended Site Certificate.

**Discussion.** These proposed changes conform the requested amendments to the Site Certificate style.

**Conclusion.** The Council adopts the amendments to Site Certificate descriptions and conditions discussed in Section IV(A) and (B) and shown in the attached redlined version of the Site Certificate, pursuant to the findings in Section V.

## V. Compliance with Siting Standards

In addressing the standards set forth in this section, the Council assesses the impacts of the changes proposed in the amendment request and the compliance with applicable standards, pursuant to OAR 235-027-0070(9).

OAR 345-027-0070(9) provides:

> In making a decision to grant or deny issuance of an amended site certificate, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision. The Council shall consider the following:
>
> (a) For an amendment that enlarges the site, the Council shall consider, within the area added to the site by the amendment, whether the facility complies with all Council standards; * * *

This is an amendment that changes and enlarges the site. The following discussion of applicable standards, substantive criteria, state statutes, administrative rules, and local government ordinances addresses the current versions of Chapter 345, Divisions 22 and 24, rules and other applicable criteria.

### A. Organizational Expertise Standard, OAR 345-022-0010

This standard has four paragraphs. The first two paragraphs, -0010(1) and -0010(2), relate to application qualifications and capability and the final two paragraphs, -0010(3) and -0010(4), relate to third-party permits.

#### Applicant Qualification and Capability, OAR 345-022-0010(1)

To issue a site certificate, the Council must find that the applicant has the organizational expertise to construct, operate and retire the proposed facility in compliance with Council standards and conditions of the site certificate. To conclude that the applicant has this expertise, the Council must find that

the applicant has demonstrated the ability to design, construct and operate the proposed facility in compliance with site certificate conditions and in a manner that protects public health and safety and has demonstrated the ability to restore the site to a useful, non-hazardous condition. The Council may consider the applicant's experience, the applicant's access to technical expertise and the applicant's past performance in constructing, operating and retiring other facilities, including, but not limited to, the number and severity of regulatory citations issued to the applicant.

**Discussion.** The proposed changes to the facility are within the scope of PGE's overall responsibilities to construct, operate, and retire the facility. The findings in the Final Order apply. This amendment will not impact PGE's qualifications as the Certificate Holder.

**Conclusion.** The Council finds that the Certificate Holder meets the requirements of OAR 345-022-0010(1).

**Applicant Qualification and Capability OAR 345-022-0010(2)**

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

**Discussion**. OAR 345-022-0010(2) is not addressed herein because the Certificate Holder does not have an ISO 9000 or 14000 certified program.

**Third-Party Services and Permits, OAR 345-022-0010(3)**

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

**Discussion.** PGE requested an amendment to Condition (7) of Section D.2 to allow the Certificate Holder to contract with the Port of St. Helens for "up to" 8.3 cfs of the water right held by the Port under the Permit to Appropriate the Public Waters, issued by the State of Oregon, Water Resources Department ("WRD"), Permit No. 53677. The condition currently requires the Certificate Holder to contract for "at least" 8.3 cfs.

PGE requested the amendment because it has an existing industrial water right for 11.3 cfs and part of that is available to supply a portion of the 8.3 cfs needed to serve the energy facility (Permit to Appropriate Public Waters, issued by the State of Oregon, WRD, Permit

No. 41506). The water right has the same permitted point of diversion as the Port's water right at the existing intake facility owned by PGE for the Beaver Generating Plant.

Although PGE's water right certificate specifies the Beaver Generating Plant location, ORS 540.520(9) and OAR 690-380-2340 allow a water right holder to change a water right for a specific industrial use to a general industrial use if the water right holder meets certain requirements and it gives notice to WRD. On that basis, PGE requested to have the option to contract with the Port for less than 8.3 cfs of the Port's municipal water right and to meet the remainder of the energy facility's water needs by using water from PGE's existing industrial water right.

To approve the requested change, the Council must find that PGE may make the described change to its water right. ORS 540.520(9) provides that a water right holder may change from specific industrial use to general industrial use without applying for a water right transfer if:

> (a) The quantity of water used for the general industrial use is not greater than the rate allowed in the original water right and not greater than the quantity of water diverted to satisfy the authorized specific use under the original water right;
>
> (b) The location where the water is to be used for general industrial use was owned by the holder of the original water right at the time the water right permit was issued * * *

The statute also requires that the water right holder provide specific information to WRD about the change. ORS 540.520(9)(c). The statute does not require any action by WRD to complete the change in use. OAR 690-380-2340(3) sets out the requirements for notice to WRD.

PGE provided copies of its industrial water use certificate and a letter to WRD regarding its intention to change the use from specific to general industrial use and to use the permit to supply water to the new energy facility as Attachments 2 and 3 of its request for amendment. Its letter to WRD, dated June 23, 2003, conforms to the information requirements of OAR 690-380-2340(3) and ORS 540.520(9)(c). The letter describes PGE's long term lease-purchase agreement and states that "[t]he amount of water used for general industrial purposes is not greater than the rate and volume allowed in the original water right and the location of general use is within the above-described lease/purchase area." The letter described PGE's ownership interest in the property. PGE provided portions of its lease/purchase arrangement for the land showing that it acquired its interest in the entire parcel of land at the same time, before issuance of the original water right. The Port of St. Helens confirmed its support for the change from specific to general industrial use in its letter of October 27, 2003.

The requirements of ORS 540.520(9) (a) and (b) are satisfied. In addition, Jerry Sauter of WRD wrote the Department that WRD has no issues with PGE using water from its

existing water right as proposed in the request. The Council finds that PGE has met the statutory and rule requirements to change the use from a specific industrial use to a general industrial use and that PGE's existing water right is available to supply water to PWGP. Thus, PGE has demonstrated that even with the requested change, adequate water will be available to meet all the needs of the facility.

PGE's amendment request to allow the Certificate Holder to contract for less than 8.3 cfs with the Port of St. Helens does not alter the likelihood that PGE will be able to enter into the required contact with the Port of St. Helens for less water than previously contemplated. Therefore, the proposed amendment will not change the findings in Section D.2.c of the Final Order regarding third party permits.

**Conclusion.** The Council finds that the Certificate Holder meets the requirements of OAR 345-022-0010(3).

> **Third-Party Services and Permits, OAR 345-022-0010(4)**
> If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall 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.** The request will not affect the findings in the Final Order or conditions in the Site Certificate relating to acquiring third party permits or contracts.

**Conclusion.** The Council finds that the Certificate Holder meets the requirements of OAR 345-022-0010(4).

**B. Retirement and Financial Assurance Standard, OAR 345-022-0050**

To issue a site certificate, the Council must find that:

(1) The site, taking into account mitigation, can be restored adequately to a useful, non-hazardous condition following permanent cessation of construction or operation of the facility.

(2) The applicant has a reasonable likelihood of obtaining a bond or letter of credit in a form and amount satisfactory to the Council to restore the site to a useful, non-hazardous condition.

**Discussion.** In Section D.3 of the Final Order, the Council found that, with the imposition of the conditions in Section D.3 of the Site Certificate, the applicant demonstrated that it could adequately restore the site to a useful, non-hazardous condition following facility retirement. One of the conditions requires the Certificate Holder to submit a bond or letter

of credit in the amount of $8,640,000 (in 2002 dollars as of the second quarter) to the State of Oregon prior to beginning construction of the facility.

PGE provided retirement fund calculations for the phased retirement that are consistent with the methodology that the Council used in its Final Order. Those calculations demonstrate that the appropriate amount of the bond or letter of credit for Phase 1 is $4,700,000 (2002 dollars as of the second quarter). PGE proposed to amend Condition (5) to add a new Condition (5)(a) and to amend Condition (5)(c) (currently Condition (5)(b)). The new and modified conditions would provide that, if the Certificate Holder develops the energy facility in phases, the Certificate Holder shall provide a bond or letter of credit in the amount of $4,700,000 (2002 dollars) prior to the beginning of construction of Phase 1, and to increase the bond to $8,640,000 (2002 dollars) prior to the beginning of construction of Phase 2.

The findings in the Final Order regarding PGE's ability to obtain a bond or letter of credit for the lesser amount apply to this request.

**Conclusion.** The Council finds that the Certificate Holder meets the requirements of OAR 345-022-0050.

**C. <u>Structural Standard, OAR 345-022-0020</u>**

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that:

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

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

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

(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in subsection (c).***

**Discussion**. The new utilities and above-ground facilities proposed in this amendment request will be located within the same Seismic Zones analyzed in the Final Order. In the Final Order, Section D.5, the Council found that the applicant met the structural standard, with the eight conditions set forth in Section D.5 of the Site Certificate. The conditions require more detailed seismic hazard evaluations and geotechnical investigations prior to beginning construction of the facility. The Site Certificate conditions requiring additional investigations and reports prior to construction will apply equally to the new facilities proposed in this amendment request. The "treatment areas" for Phases 1 and 2 in revised Figure B-1 show where the Certificate Holder will prepare foundations for each phase.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0020.

## D. Soil Protection Standard, OAR 345-022-0022

To issue a site certificate, the Council must find that the design, construction, operation and retirement of the facility, taking into account mitigation, are not likely to result in a significant adverse impact to soils including, but not limited to, erosion and chemical factors such as salt deposition from cooling towers, land application of liquid effluent, and chemical spills.

**Discussion.** In the Final Order, Section D.6, the Council found that the applicant met the soil protection standard, provided certain conditions were met. Because the new utilities and above-ground structures proposed in this amendment request are located either within or immediately adjacent to the approved energy facility site, and therefore on the same types of soils, the Council's findings extend equally to these new structures. In addition, the new structures require the same type of construction activities as the original proposal and, in the case of the new lines, mostly follow existing road and pipeline corridors to minimize soil disturbance.

The ten conditions in Section D.6 of the Site Certificate require the Certificate Holder to employ soil erosion and sediment runoff control measures during construction and operation; use native seed mixes to restore vegetation to the extent practicable and landscape disturbed portions of the site upon completion of construction; protect soil from chemical spills on site; and minimize drift from cooling towers. The conditions can accommodate the proposed phased development.

However, due to the recent amendment of this administrative rule to include both operation and retirement, Condition D.6(1) must be revised to apply the soil protection conditions to all activities within the site, including retirement. The findings and associated conditions in Section D.3 (Retirement and Financial Assurance) of the Final Order demonstrate that the site can be restored to a useful, nonhazardous condition upon retirement. Any additional soil protection measures unique to retirement may be applied to the site by the site restoration plan, which will be submitted to the Council within two years of retirement pursuant to Condition D.3(2). With this change to Condition D.6(1), the Council finds that

the amendments are consistent with the Soil Protection Standard and associated findings in the Final Order.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0022.

**E. Land Use Standard, OAR 345-022-0030**

(1) To issue a site certificate, the Council must find that the proposed facility complies with the statewide planning goals adopted by the Land Conservation and Development Commission.

(2) The Council shall find that a proposed facility complies with section (1) if:

(a) The applicant elects to obtain local land use approvals under ORS 469.504(1)(a) and the Council finds that the facility has received local land use approval under the acknowledged comprehensive plan and land use regulations of the affected local government; or

(b) The applicant elects to obtain a Council determination under ORS 469.504(1)(b) and the Council determines that:

(A) The proposed facility complies with applicable substantive criteria as described in section (3) and the facility complies with any Land Conservation and Development Commission administrative rules and goals and any land use statutes directly applicable to the facility under ORS 197.646(3);

(B) For a proposed facility that does not comply with one or more of the applicable substantive criteria as described in section (3), the facility otherwise complies with the statewide planning goals or an exception to any applicable statewide planning goal is justified under section (4); or

(C) For a proposed facility that the Council decides, under sections (3) or (6), to evaluate against the statewide planning goals, the proposed facility complies with the applicable statewide planning goals or that an exception to any applicable statewide planning goal is justified under section (4).***

**Discussion.** The proposed changes to the facility do not alter the Council's findings in the Final Order that the facility complies with the applicable substantive criteria of the Columbia County Zoning Ordinance and Comprehensive Plan. PGE does not propose to expand the footprint of the energy facility site, nor do the amendments require the consideration of any new substantive criteria. The new dead-end transmission structure and compression station will be located entirely within the boundaries of the energy facility site, and the additional utility lines will be located below ground mostly in existing

roadways and utility line corridors between the energy facility site and the PGE Beaver Generating Plant or the potable water tank, within the 852-acre parcel leased by PGE. In the event that the Certificate Holder uses the existing water system for the PGE Beaver Generating Plant, it is also located within PGE's 852-acre parcel.

All of the portions of the facility affected by the proposed amendment will be sited within the Resource Industrial-Planned Development ("RIPD") zone, which permits the proposed facilities with conditions, pursuant to Columbia County Zoning Ordinance ("CCZO), Sections 681 (Purpose), 683 (Uses Permitted Under Prescribed Conditions), 684 (Standards), and 1503 (Conditional Uses). Based on its analysis in Attachment D to the Final Order, the Council found that the energy facility and its related or supporting underground pipelines and transmission lines meet the County zoning criteria.

The changes proposed to the energy facility site and the new related or supporting pipelines and transmission line in the RIPD zone are of the same type as the facilities for which the Council has already found compliance. No new or different effects of the proposed changes have been identified that are relevant to any approval criterion or standard in the county's land use regulations or comprehensive plan. As a result, the Council's findings on the initial application adequately address compliance with the Land Use Standard, and it is not necessary to amend or supplement the five conditions imposed in Section D.4 of the Site Certificate.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0030.

**F. <u>Protected Area Standard, OAR 345-022-0040</u>**

(1) Except as provided in sections (2) and (3), the Council shall not issue a site certificate for a proposed facility located in the areas listed below. To issue a site certificate for a proposed facility located outside the areas listed below, the Council must find that, taking into account mitigation, the design, construction and operation of the facility are not likely to result in significant adverse impact to the areas listed below. Cross-references in this rule to federal or state statutes or regulations are to the version of the statutes or regulations in effect as of August 28, 2003:***

**Discussion.** Recent amendments to OAR 345-022-0040 changed the list of protected areas to include those areas designated as of August 28, 2003 (the list previously referenced those areas designated as of March 29, 2002). This amendment does not affect this amendment request because there are no newly-designated protected areas within the vicinity of the energy facility.

In Section D.7 of the Final Order, the Council found that the energy facility would meet the protected areas standard and included no conditions in the Site Certificate for this standard. Because the new utilities and above-ground structures proposed herein will be minor

structural additions or modifications within the energy facility site, and the new utility lines will mostly follow existing roads and utility corridors within the PGE parcel and will be buried and distant from the Protected Areas, the findings in the Final Order are sufficient to demonstrate compliance with the Protected Areas standard.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0040.

**G. Fish and Wildlife Habitat Standard, OAR 345-022-0060**

To issue a site certificate, the Council must find that the design, construction, operation and retirement of the facility, taking into account mitigation, are consistent with the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025 in effect as of September 1, 2000.

**Discussion.** The areas affected by the proposed amendment are within the Analysis Area considered in the Final Order or within the right-of-way of a developed road. In Section D.8 of the Final Order, the Council found that, with the imposition of the 24 conditions set forth in Section D.8 of the Site Certificate, the energy facility would be consistent with the ODFW fish and wildlife habitat goals and standards. To ensure that the existing conditions adequately address phased development, PGE proposed to amend Conditions (7) and (13) of Section D.8 to clarify when the Certificate Holder is responsible to perform particular mitigation activities in the event of phased development. In, addition, PGE proposed to modify Condition (22) to clarify that the Certificate Holder must submit a revegetation report to ODFW within one year of completion of construction of each phase.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0060.

**H. Threatened and Endangered Species Standard, OAR 345-022-0070**

To issue a site certificate, the Council, after consultation with appropriate state agencies, must find that:

(1) For plant species that the Oregon Department of Agriculture has listed as threatened or endangered under ORS 564.105(2), the design, construction, operation and retirement of the proposed facility, taking into account mitigation:

(a) Are consistent with the protection and conservation program, if any, that the Oregon Department of Agriculture has adopted under ORS 564.105(3); or

(b) If the Oregon Department of Agriculture has not adopted a protection and conservation program, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species; and

(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as threatened or endangered under ORS 496.172(2), the design, construction, operation and retirement of the proposed facility, taking

into account mitigation, are not likely to cause a significant reduction in the likelihood of survival or recovery of the species.

**Discussion.** The new utilities and above-ground structures proposed by this amendment will be located mostly within the energy facility site and roadway and water line corridors analyzed in the Final Order for impacts on listed plant and wildlife species or within the right-of-way of a developed road. In Section D.9 of the Final Order, the Council found that, with the imposition of the eight conditions in Section D.9 of the Site Certificate, the energy facility will not have an adverse impact on any threatened, endangered, or candidate plant species or their habitat. In addition, as discussed below in Section 1.6, the new compressor station will not raise the total noise emissions of the energy facility. Therefore, the Council's findings that noise from the facility will not impact any listed species is equally applicable to the requested amendments. The findings in the Final Order are sufficient to demonstrate compliance with this standard.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0070.

**I. <u>Scenic and Aesthetic Values Standard, OAR 345-022-0080</u>**

(1) Except for facilities described in sections (2), to issue a site certificate, the Council must find that the design, construction, operation and retirement of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic and aesthetic values identified as significant or important in applicable federal land management plans or in local land use plans in the analysis area described in the project order. ***

**Discussion.** In Section D.10 of the Final Order, the Council concluded that, with the imposition of the seven conditions set forth in Section D.10 of the Site Certificate, the energy facility would meet the Scenic and Aesthetic Values Standard. The dead-end transmission structure and compression station will be located within the energy facility site and, in the context of the other structures within the energy facility site, the visual impact of the additional facilities will be slight. Similarly, the change in the number of transformers within the facility footprint and the relocation of the settling basin and tanks will also be visually slight in the context of the energy facility in its entirety. Furthermore, the additional utility lines will be buried mostly within previously disturbed corridors and roadways within the PGE parcel, and with the existing conditions, will not adversely affect scenic and aesthetic values. Thus, the Council's findings in Section D.10 of the Final Order apply equally to the new facilities to demonstrate compliance with the Scenic and Aesthetic Values Standard and no additional conditions beyond those currently set forth in Section D.10 are necessary.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0080.

**J. Historic, Cultural, and Archeological Resources Standard, OAR 345-022-0090**

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction, operation and retirement of the facility, taking into account mitigation, are not likely to result in significant adverse impacts to:

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

(b) 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

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

**Discussion.** The new utilities and above-ground structures PGE proposed in this amendment request will be located within the energy facility site and in the immediate vicinity, between the energy facility and the Beaver Generating Plant, and the energy facility and the PGE water intake structure. Historic, cultural and archaeological resources within this area were addressed in the Final Order. In Section D.11 of the Final Order, the Council found that, with the imposition of the conditions in Section D.11 of the Site Certificate, the construction of the energy facility and its related or supporting facilities would have no effect on identified cultural resources.

Because the new facilities will be within the area previously analyzed in the Final Order, the Council's findings of compliance with the Historic, Cultural, and Archaeological Resources standard apply equally to this amendment request. However, because PGE proposed to amend the Site Certificate to accommodate phased development of the energy facility, PGE proposed to modify Section D.11, Condition (5), to clarify that the Certificate Holder shall notify the Tribes before beginning construction of each phase of the facility.

At the request of the State Historic Preservation Office, the Council also clarified in Conditions (1) and (3) the responsibilities of the Certificate Holder if its qualified archaeologist identifies artifacts or cultural material during the pre-construction survey or during construction. (See also Section IV.B(6) and (7) above.)

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0090.

**K. Recreation Standard, OAR 345-022-0100**

(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities in the analysis area as described in the project order. The Council shall consider the following factors in judging the importance of a recreational opportunity:

(a) Any special designation or management of the location;
(b) The degree of demand;
(c) Outstanding or unusual qualities;
(d) Availability or rareness;
(e) Irreplaceability or irretrievability of the opportunity. ***

**Discussion.** Recreational facilities and opportunities were reviewed in the Final Order, and the new facilities proposed in this amendment request will be within the same analysis area. In Section D.12 of the Final Order, the Council found that the energy facility would not adversely affect recreational opportunities within a five-mile analysis area around the energy facility site. The Council specifically addressed the potential impacts from noise, traffic, water resource impacts and visual impacts, and found that no conditions were needed to ensure compliance with the Recreation Standard.

The new utility lines will be underground and located entirely within the industrial-zoned parcel. Therefore, the lines will not affect recreational opportunities in the analysis area. In addition, the new and modified above-ground structures (dead-end transmission structure, compression station, transformers, and relocated settling basin and tanks) will be located entirely within the energy facility site and, in the context of the facility as a whole, the subject components will not create any significant new visual intrusions within the site. Furthermore, the noise analysis illustrates that the new compression station will not increase noise emanating from the site beyond acceptable DEQ levels. (*See* Section V.O, below).

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0100.

## L. Public Services Standard, OAR 345-022-0110

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools.***

**Discussion.** The new utilities and above-ground structures proposed by PGE are within the public services analysis area reviewed in the Final Order. In Section D.13 of the Final Order, the Council found that, with the imposition of the ten conditions of approval set forth in Section D.13 of the Site Certificate, the facility would not adversely affect the listed public services. The new utility lines and above-ground facilities will not alter the operation of the energy facility in a manner that alters the impact of the facility on the public services. In fact, the proposed addition of the PGE water right as a water supply option will reduce the burden on public service providers by reducing the amount of water

that the Port of St. Helens must provide to the energy facility. The phased development request merely alters the timing of development, but will not change the overall impact on public services. Therefore, the amendment request is consistent with the findings in the Final Order relating to the Public Services Standard.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0110.

**M. Waste Minimization Standard, OAR 345-022-0120**

(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that, to the extent reasonably practicable:

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

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

* * *

**Discussion.** The waste minimization standard was addressed in Section D.14 of the Final Order. The Council imposed five conditions in Section D.14 of the Site Certificate to ensure compliance with the waste minimization standard. The proposed amendments will not alter the Certificate Holder's solid waste and wastewater generation and disposal plans. Therefore, the Council's original findings are sufficient to demonstrate compliance with the Waste Minimization standard and no additional conditions are necessary to maintain compliance.

**Conclusion.** The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0120.

**N. Carbon Dioxide Standard**

**Standard for Base Load Gas Plants, OAR 345-024-0550**

To issue a site certificate for a base load gas plant, the Council must find that the net carbon dioxide emissions rate of the proposed facility does not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis. For a base load gas plant designed with power or augmentation technology as defined in OAR 345-001-0010, the Council shall apply the standard for a non-base load power plant, as described in OAR 345-024-0590, to the incremental carbon dioxide emissions from the designed operation of the power augmentation technology.***

**Discussion**. The Council has amended the carbon dioxide ("$CO_2$") standard, set forth at OAR 345-024-0500 through 345-024-0720, since it granted the Site Certificate. However, the Council's findings in Section D.15 of the Final Order and the associated conditions are sufficient to ensure compliance with the amended $CO_2$ standards. The new condition proposed herein, discussed below, is required to address the proposed phased development. In addition, a minor editorial change is necessary to reference the revised condition numbers within the Retirement and Financial Assurance section of the Site Certificate.

PGE proposed to add a new condition, Condition (11), to Section D.15 of the Site Certificate to accommodate construction of the project in one or two phases. As amended, the condition will allow PGE to comply with the $CO_2$ standards on a unit-by-unit basis. All $CO_2$ standards would apply separately to each phase. The Council clarified the language of the condition to ensure its general applicability. The amended condition is consistent with OAR 345-024-0500 because it ensures that the energy facility will comply with the $CO_2$ emissions standards as each phase of the facility is constructed. PGE provided calculations that showed that compliance with the $CO_2$ standard through the monetary path would result in a payment requirement of about $4,374,000 for offsets and selection and contracting funds of about $216,000 for a single phase as represented.

**Conclusion**. The Council finds that the proposed changes to the facility meet the requirements of OAR 345-024-0550 through -0710.

## O. Noise OAR 340-035-0035(1)(b)(B)

The Council applies and enforces the Department of Environmental Quality's ("DEQ") noise standards for energy facilities under its jurisdiction. The DEQ noise regulations for industrial and commercial noise sources apply to the Project. Under the DEQ regulations, the generating facility would be located on a "previously unused industrial site" and according to the regulations:

> No person owning or controlling a new industrial or commercial noise source located on a previously unused industrial or commercial site shall cause or permit the operation of that noise source if the noise levels generated or indirectly caused by that noise source increase the ambient statistical noise levels, $L_{10}$ or $L_{50}$, by more than 10 dBA in any one hour, or exceed the levels specified in Table 8, as measured at an appropriate measurement point. OAR 340-035-0035(1)(b)(B)(i).

**Discussion.** DEQ noise regulations for industrial and commercial noise sources apply to the energy facility. In Section E.1.a of the Final Order, the Council found that the energy facility would meet the DEQ noise standards applicable to the facility, OAR 340-035-0035(1)(b)(B)(i). With the exception of the compressor station and its associated meter station and outdoor equipment, the other new utilities and above-ground facilities proposed herein do not have the potential to alter noise levels at the facility.

The Council consulted with Mr. Kerrie G. Standlee, P.E., an acoustical engineer, who reviewed the noise analysis of Mr. Albert G. Duble, P.E., that PGE provided. The Council, through Mr. Standlee, confirmed that, with the addition of the compressor station to the project, the total predicted future noise produced by the energy facility will comply with the DEQ noise standard, OAR 340-035-0035(1)(b)(B)(i).

As explained above, this amendment request proposed to add electric compressors, with a total of 1,000 to 7,000 horsepower, to the energy facility site to increase gas pipeline compression. The compressors will be located within a steel building, about 120 feet long, 60 feet wide, and 24 feet high. The building will be insulated with an acoustical insulation to attenuate the noise level of the compressors. The building will be located west of Unit 2, on the western edge of the energy facility site.

PGE collected noise data from the 7,000 Hp gas fired compressor at the Northwest Natural Gas Miller Station and, using those data, estimated that the loudest potential noise produced by the new electric compressors will be 105 dBA at a point about 10 feet from the compressors. PGE stated that, by enclosing the compressors in an insulated structure, the noise radiating from them will be attenuated to a level that will not change the total energy facility noise levels predicted in the Final Order at the nearest residence (located approximately 4780 feet from the site).

Through his review of the PGE materials, Mr. Standlee determined that an error was made in the estimation of the noise reduction that would be provided by the compressor building at the PGE facility; and due to that error, the noise radiating from the energy facility would be raised by 1 dBA over that predicted in the Final Order at the nearest residence. Based on his analysis, the noise from the gas compressor plant would be 26 dBA at the nearest residence instead of the 16 dBA reported by PGE. Thus, the total noise from the power plant and the gas compressor plant would be 1 dBA higher than that shown in the Final Order. The 1 dBA change would not be noticeable.

The final amount of noise that would radiate from the gas compressor building, associated piping, and meter station will depend on the amount of transmission loss provided with the compressor building walls and roof, the presence of sound absorption material inside the building, the use of silencers on building vents, the sealing of building wall and roof penetrations, and the use of noise controls such as pipe lagging on above ground piping, if there is any. However, based on the fact that there is a significant number of available mitigation measures that can effectively reduce the noise radiating from the compressor plant, the Council finds that PGE can reduce the radiated noise to well below the noise levels specified in the DEQ noise regulations, OAR 340-035-0035(1)(b)(B)(i) and Washington Department of Ecology ("DOE") noise regulations (WAC Chapter 173-60).

Based upon the information that PGE supplied with the amendment request, the conditions set forth in Section E.1.a of the Site Certificate are sufficient to ensure compliance with the DEQ noise standards. Specifically, Condition (4) will ensure that the noise from the entire energy facility, including the compressors, will be measured within six months after the

start of commercial operation of the energy facility. These data will confirm that the type of enclosure and insulation ultimately chosen for the compressor station will maintain noise levels in compliance with OAR 340-035-0035(1)(b)(B)(i). Pursuant to Condition (4)(c), if the noise levels do not comply with the applicable noise standards, the Certificate Holder must take all actions necessary to ensure compliance. Because PGE has shown that it is feasible to enclose and insulate the compressors in a manner that will ensure that the energy facility will meet the noise standards with the addition of the compressor station, no additional conditions are necessary to demonstrate compliance with the applicable noise standards.

**Conclusion** The Council finds that the proposed changes to the facility meet the requirements of OAR 340-035-0035(1)(b)(B)(i).

## P. Wetlands, OAR 345-022-0000

Pursuant to OAR 345-022-0000, the Council must determine compliance with applicable statutes, ORS 196.800-.990, and applicable Division of State Lands ("DSL") regulations, OAR 141-085-0005 *et seq.* relating to fill and other operations taking place within wetlands. These regulations require persons to obtain a removal/fill permit if more than 50 cubic yards of material will be removed or altered within "waters of the state." The overall standard to be considered in granting a removal/fill permit is whether the proposed activity would not "unreasonably interfere with the paramount policy of this state to preserve the use of its waters for navigation, fishing and public recreation." ORS 196.825(2).

**Discussion.** In Section E.1.b of the Final Order, the Council found that the energy facility would comply with OAR 345-021-0010(1)(j) and ORS 196.800-990, subject to issuance of a Removal/Fill Permit substantially in the form of Attachment C to the Final Order prior to commencement of construction of the facility.

To confirm that the proposed amendments would not impact any jurisdictional wetlands, PGE conducted on-site delineation field studies of the areas to be impacted by the new facilities. The delineation shows that the proposed construction of the new facilities will create no additional impacts on any identified wetlands.

**Conclusion.** The Council finds that approval of this amendment request will satisfy the Council's obligation to determine compliance with DSL removal/fill permit requirements.

## Q. Public Health and Safety, ORS 469.401(2)

The Council is required to impose conditions in the site certificate for the protection of public health and safety.

**Discussion.** In Section E.1.c of the Final Order, the Council found that the energy facility, if designed per the proposed conditions, will protect public health and safety. The subject conditions primarily govern the design and placement of the transmission lines to minimize alternating current electric fields and induced currents. To ensure that all distribution and

transmission lines associated with the facility are designed to reduce electric fields and induced currents as low as reasonably achievable, PGE proposed to amend Conditions (2), (3), (6), (7), and (8) of Section E.1.c. of the Site Certificate to reference the new backup electricity line. With this modification, the Council's existing findings in Section E.1.c of the Final Order are sufficient to demonstrate compliance with the Public Health and Safety standard.

**Conclusion.** The Council finds that the proposed changes to the facility continue to meet the Council's conditions that protect public health and safety, pursuant to ORS 469.401(2).

## VI. Conclusions

The Council finds that the actions in the Certificate Holder's request are consistent with current Council rules, with other applicable statutes and rules, and with statewide land use planning goals and would not cause a significant adverse impact to public health and safety or the environment. In preparing this Order, the Council limited its consideration to the effects that may be produced by the proposed change to the facility described in the Certificate Holder's Request for First Amendment to the Site Certificate for the Port Westward Generating Project. In considering those effects, the Council reviewed state statutes, administrative rules, and local government ordinances.

Based on the above findings, the Council concludes that it should amend the Site Certificate for the Port Westward Generating Project as the Certificate Holder requests with modifications to the conditions as noted above in Section IV and in Attachment 1 of this Order.

## 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 Number One and that the chairperson of the Council shall execute the Site Certificate Amendment in the form of the "First Amended Site Certificate for the Port Westward Generating Project." This incorporates Attachments to the original Site Certificate for the Port Westward Generating Project. The First Amended Site Certificate for the Port Westward Generating Project with Attachments is attached to this Order and is incorporated by reference into this Order.

Ordered this 5th day of December 2003.

Dr. Roslyn Elms-Sutherland
Chair, Oregon Energy Facility Siting Council

**ATTACHMENT 1**
FIRST AMENDED SITE CERTIFICATE (WITHOUT OTHER ATTACHMENTS) WITH ADOPTED CHANGES SHOWN IN REDLINE

**ATTACHMENT 2**
FIRST AMENDED SITE CERTIFICATE WITH ATTACHMENTS

**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.
/
/
/

# ATTACHMENT 1

# FIRST AMENDED SITE CERTIFICATE

# (REDLINE)

BLANK

# RECOMMENDED

# FIRST AMENDED

# SITE CERTIFICATE

# FOR THE

# PORT WESTWARD GENERATING PROJECT

ISSUED BY

OREGON ENERGY FACILITY SITING COUNCIL
625 MARION STREET, NE
SALEM OREGON 97301-3737

503.378.4040
503.373.7806 *FAX*

~~NOVEMBER 8,2002~~
DECEMBER 5, 2003

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# FIRST AMENDED
# SITE CERTIFICATE
## FOR THE
# PORT WESTWARD GENERATING PROJECT

## A. INTRODUCTION

This site certificate for the Port Westward Generating Project ("PWGP or Project") is issued and executed in the manner provided by ORS Chapter 469, by and between the State of Oregon ("State"), acting by and through its Energy Facility Siting Council ("Council"), and the Portland General Electric Company ("PGE" or "Certificate Holder").

The findings of fact, reasoning and conclusions of law underlying the terms and conditions of this site certificate are set forth in the following documents, which by this reference are incorporated herein: (a) the Council's Final Order in the Matter of the Application for a Site Certificate for the Port Westward Generating Project, which the Council granted on November 8, 2002~~, and which by this reference is incorporated herein~~; and, (b) the Council's Final Order in the Matter of the Site Certificate for the Port Westward Generating Project Request for Amendment No. One, which the Council granted on December 5, 2003. [Amendment No. 1]

In interpreting this site certificate, any ambiguity shall be clarified by reference to, and in the following priority: this Site Certificate, the record of the proceedings which led to the Final Order, and the Application for a Site Certificate for the Port Westward Generating Project. As used in this Site Certificate, the "application for site certificate" or the "ASC" includes: (a) the Application for a Site Certificate for the Port Westward Generating Project, which the Office of Energy ("Office") filed on April 11, 2002; and (b) the Certificate Holder's Request for First Amendment to the Site Certificate for the Port Westward Generating Project, which the Council received on October 25, 2003. [Amendment No. 1]

The terms used in this Site Certificate shall have the same meaning set forth in ORS 469.300 and Oregon Administrative Rules (OAR) 345-001-0010, except where otherwise stated or where the context clearly indicates otherwise.

## B. SITE CERTIFICATION

1. To the extent authorized by State law and subject to the conditions set forth herein, the State approves and authorizes the Certificate Holder to construct, operate and retire a natural gas-fired, combined cycle combustion turbine energy facility, together with certain related or supporting facilities, at the site as described in Section C of this Site Certificate, near Clatskanie, Oregon. ORS 469.401(1).

2. This site certificate shall be effective (1) until it is terminated pursuant to OAR 345-027-0110 or the rules in effect on the date that termination is sought, or (2) until the Site Certificate is revoked pursuant to ORS 469.440 and OAR 345-029-0100 or the statutes and rules in effect on the date that revocation is ordered. ORS 469.401(1).

3. This Site Certificate does not address, and is not binding with respect to, matters that were not addressed in the Council's Final Order. These matters include, but are not limited to: building code compliance, wage, hour and other labor regulations, local government fees and charges, and other design or operational issues that do not relate to siting the Project; and permits issued under statutes and rules for which the decision on compliance has been delegated by the Federal government to a state agency other than the Council. ORS 469.401(4) and 469.503(3).

4. Both the State and the Certificate Holder shall abide by local ordinances and state law and the rules of the Council in effect on the date this Site Certificate is executed. In addition, upon a clear showing of a significant threat to the public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules. ORS 469.401(2).

5 For a permit, license or other approval addressed in and governed by this Site Certificate, the Certificate Holder shall comply with applicable state and federal laws adopted in the future to the extent that such compliance is required under the respective state agency statutes and rules. ORS 469.401(2).

6. Subject to the conditions herein, this Site Certificate binds the State and all counties, cities and political subdivisions in this state as to the approval of the site and the construction, operation and retirement of the Project as to matters that are addressed in and governed by this Site Certificate. ORS 469.401(3).

7. Each affected state agency, county, city and political subdivision in Oregon with authority to issue a permit, license or other approval addressed in or governed by this Site Certificate shall, upon submission of the proper application and payment of the proper fees, but without hearings or other proceedings, issue such permit, license or other approval subject only to conditions set forth in this Site Certificate. ORS 469.401(3).

8. After issuance of this Site Certificate, each state agency or local government agency that issues a permit, license or other approval for the Project shall continue to exercise enforcement authority over such permit, license or other approval. ORS 469.401(3).

9. After issuance of this Site Certificate, the Council shall have continuing authority over the site and may inspect, or direct the Office to inspect, or request another state agency or local government to inspect, the site at any time in order to assure that the Project is being operated consistently with the terms and conditions of this Site Certificate. ORS 469.430.

10. The Certificate Holder may develop the energy facility in two phases. Phase 1 would consist of the southernmost generating unit ("Unit 1"), including one combustion turbine generator, heat recovery steam generator, steam generator, one step-up transformer bank, auxiliary transformer, and cooling tower. Phase 1 would also include all of the energy

facility components common to the two units and the related or supporting facilities, except the switchyard. Phase 2 would consist of the northernmost generating unit ("Unit 2"), its associated facilities and the switchyard. All conditions of this Site Certificate apply equally to Phase 1 and Phase 2, unless a condition specifies different obligations for Phase 1 or Phase 2. [Amendment No. 1]

## C. SITE DESCRIPTIONS

## C.1. FACILITY

### C.1.a. Major Structures and Equipment

**Major Structures and Equipment.** The net electric power output of the energy facility will be about 560 MW. It will use power augmentation, i.e., duct burning, that will allow it to achieve a net electric power output of about 650 MW for a limited number of hours annually on average.

The energy facility will consist of two ~~essentially identical~~ combustion turbine generators (General Electric Frame 7FB's or comparable combustion turbines), two heat recovery steam generators ("HRSG"), and two steam generators. It will burn natural gas in the combustion turbines and duct burners. Expanding gases from combustion will turn rotors within the turbines that are connected to electric generators. The hot gases exhausted from the combustion turbines and duct burners will be used to raise steam in the HRSGs. Steam from the HRSGs will be expanded through the steam turbines. Each steam turbine will drive its own electric generator. [Amendment No. 1]

The combustion turbines will be housed in a turbine building that provides thermal insulation, acoustical attenuation and fire extinguishing media containment. The turbine building, occupying a footprint measuring about 230 feet by 560 feet and standing about 90 feet high, will also house the steam turbine generators, condensers, balance of plant equipment, control room, and administrative offices. The enclosure will allow access for routine inspection and maintenance.

Each of the two HRSGs will occupy a footprint measuring about 50 feet by 150 feet and will stand about 110 feet high. A stack will be provided for each combustion turbine's HRSG. The two stacks will be about 15 to 25 feet in diameter and 200 feet high.

~~Four~~Six transformers will step-up the combustion turbine and steam turbine generator voltages to the substation voltage of 230 kilovolts ("kV"). Two auxiliary transformers will supply power for plant auxiliary loads. [Amendment No. 1]

Most of the structures comprising the energy facility, including the combustion and steam turbines and generators, the main step-up transformers, the HRSG, and the control rooms, will be contained within an area measuring about 400 feet by 560 feet.

Two mechanical-draft cooling towers will be used to remove the waste heat from each main condenser and the plant auxiliary heat exchangers. The cooling towers and circulating water pumps will cover an area of about 75 feet by 650 feet and will stand about 50 feet high.

A switchyard or dead-end transmission structure will interconnect the plant's output to the 230-kV transmission network. The switchyard footprint will measure about 300 feet by 500 feet. [Amendment No. 1]

Additional facilities will include: a plant services/warehouse building; two boiler feed pump buildings; a fire water pump building; a water treatment building; a clarifier; a settling basin; a condensate tank, a fire water/service water storage tank and a demineralized water storage tank (each with 440,000-gallon capacity); a natural gas metering station; a natural gas compressor station with electric compressors of 1,000 to 7,000 horsepower total, enclosed in a building with acoustical insulation; and, an aqueous ammonia storage tank (with 100,000-gallon capacity and equipped with containment). [Amendment No. 1]

Natural gas will not be stored at the energy facility site. Diesel fuel for the fire pumps will be stored in an aboveground tank. Water treatment chemicals will be stored in permanent aboveground storage tanks or portable plastic tanks (totes). To prevent storm water runoff from chemical storage, all fuel and chemical storage will be inside buildings or under cover in paved areas with a curb. All individual spill containment areas will be designed to hold at least 110 percent of the volume of liquids stored within them.

A complete fire protection system will be installed within the buildings and yard areas at the energy facility site. The system will be designed to meet the requirements of the Uniform Fire Code, as amended by Oregon and the National Fire Protection Association, and all other applicable fire protection standards. The fire protection system will include a fire water system, a dry chemical extinguishing system, a carbon dioxide ("$CO_2$") extinguishing system, and portable fire extinguishers. The road system within the energy facility site will be designed for access by large trucks needed for equipment and material deliveries. The minimum turning inside radius for roads will be 40 feet.

The fire water system will include a fire water supply loop, fire hydrants, sprinkler systems, and hoses placed at appropriate locations. Reserved capacity in the 180,000-gallon fire water/service water storage tank will serve as the firewater source.

The combustion turbine enclosures will be protected by foam or $CO_2$ systems. If the systems were to activate, an alarm will sound and/or a visual indicator will light up on the gas turbine control panel.

Portable fire extinguishers will be placed at key locations within the energy facility site. The type and number of portable fire extinguishers will conform to applicable code requirements.

The Certificate Holder may develop the whole facility at the same time or it may develop only one of the generating units and the related or supporting facilities ("Phase 1") or the two units of

the energy facility in two distinct phases ("Phase 1" and "Phase 2"). As referred to in this Site Certificate, the Certificate Holder would develop Phase 1 first if it develops the energy facility in phases. Phase 1 would consist of the southernmost generating unit ("Unit 1"), including a combustion turbine generator, heat recovery steam generator, steam generator, one step-up transformer bank, auxiliary transformer, and cooling tower. Phase 1 would also include all of the energy facility components common to the two units and the related or supporting facilities, except the switchyard, which the Certificate Holder would construct with the northernmost generating unit ("Unit 2") and associated facilities as part of Phase 2. [Amendment No. 1]

**Output.** The energy facility will have a net electric power output of about 560 MW (280 MW per generating unit) at an average annual site condition of 51 degrees Fahrenheit, 14.691 pounds per square inch barometric pressure, and 78 percent relative humidity. The new and clean heat rate will be about 6,790 Btu (higher heating value). [Amendment No. 1]

With power augmentation technologies (duct burning), the energy facility will have a net electric power output of about 650 MW (325 MW per generating unit) and a new and clean heat rate of about 7,100 Btu (higher heating value). The Certificate Holder proposes to operate the energy facility with power augmentation technologies for 3,000 hours annually on average. [Amendment No. 1]

**Fuel Use.** The energy facility will use natural gas as the only fuel to power the turbines and the power augmentation technologies. It will use 4,600 MM Btu per hour (2,300 MM BTU per hour per generating unit) of natural gas at full load with the duct burners in operation at the average annual site condition. [Amendment No. 1]

**Water Use.** The energy facility will obtain water to generate steam and to cool the steam process from an existing PGE intake structure on the Bradbury Slough of the Columbia River. ~~the~~The Certificate Holder will use water from PGE's existing industrial water right and, if necessary, will enter into a contract with the Port of St. Helens, which has an existing water permit, to obtain water sufficient for operation of the energy facility. [Amendment No. 1]

Average water demand at the energy facility will be about 2,800 gallons per minute ("gpm"), or 4.0 million gallons per day ("gpd"). Peak water demand will be about 3,700 gpm, 5.4 million gpd, or 8.3 cubic feet per second ("cfs"). These amounts would be reduced by one-half for Unit 1 and for Unit 2. [Amendment No. 1]

The energy facility will require no new state-administered water right, water rights transfer, or surface water right permit for water supply. The Port of St. Helens has an existing municipal water use permit for 30 cfs and PGE has and existing industrial water right for 11.3 cfs. [Amendment No. 1]

The water ~~right has~~ rights have a permitted point of diversion, where existing withdrawals occur and the energy facility withdrawals will occur. PGE owns and operates the existing point of diversion. To serve the energy facility, PGE will place additional pumps within the existing intake facility. PGE will employ fish screens compliant with National Marine Fisheries Service

("NMFS") screening criteria and Oregon Department of Fish and Wildlife ("ODFW") criteria. [Amendment No. 1]

**Wastewater.** Process blowdown is washdown water, filter backwash or other non-sanitary liquid waste produced within the energy facility. The average volume of process blowdown for both units combined will be about 190 gpm. Cooling system blowdown is water withdrawn from the cooling system to control the buildup of dissolved salts. The average volume of cooling system blowdown for both units combined will be about 460 gpm, but it could vary depending on the quality of the river water supply. The energy facility will discharge its process and cooling system blowdown to the Columbia River under a National Pollution Discharge Elimination System ("NPDES") permit that the Port of St. Helens has requested from DEQ. [Amendment No. 1]

The Certificate Holder will discharge sanitary sewage to an engineered septic tank and drain field at a rate of about 500 gallons per day, as permitted by a Water Pollution Control Facilities permit. The Certificate Holder will route storm water from roofs and paved areas to pervious areas to percolate into the shallow groundwater.

**C.1.b. Related or Supporting Facilities**

The energy facility will include the following related or supporting facilities:

**Natural Gas Pipeline.** Natural gas will fuel the combustion turbine generators and duct burners. The energy facility will be served by the Kelso-Beaver Pipeline, an existing FERC-regulated interstate pipeline with a current capacity of 193,000 decatherms per day. PGE owns the pipeline jointly with two other parties. To create the additional capacity that will be required to serve the energy facility, PGE will add ~~4,000 to 15,000~~ 1,000 to 7,000 compressor horsepower to the Port Westward site and/or up to 8,000 compressor horsepower to the Kelso-Beaver Pipeline. All work on the existing pipeline will be subject to FERC approval. The addition of compressor horsepower is intended to ensure ~~415~~ 300 to 520 psig gas pressure at the Port Westward Industrial Area with total capacity of 310 million standard cubic feet/day. [Amendment No. 1]

The interconnecting pipeline, about 18 inches in diameter, between the existing Kelso-Beaver Pipeline and the energy facility will be about 1,000 feet long and will be installed below grade with appropriate cathodic protection.

**Water Supply Pipeline.** Water supply for the energy facility will be drawn from Bradbury Slough at about River Mile 53.8 of the Columbia River from an existing PGE intake facility for the PGE Beaver Generating Plant. The pump capacity of the existing intake facility will be expanded. No major structural improvements or modifications to the intake facility will be required. However, PGE will upgrade the fish screens to comply with NMFS and ODFW criteria regardless of whether it builds the Port Westward Generating Project. The Certificate Holder will install a water supply pipeline about 20 inches in diameter and 6,000 feet long to convey water from the intake facility to the energy facility. The water supply pipeline will traverse upland areas and will avoid wetlands. [Amendment No. 1]

~~Reclaimed~~ **Wastewater Pipeline.** Process and cooling wastewater discharged from the energy facility will be collected in a settling basin and returned to the Columbia River about one-half mile northwest of the energy facility, pursuant to the Port of St. Helens' NPDES permit. [Amendment No. 1]

**Utility Lines Between the Energy Facility Site and the PGE Beaver Generating Plant.** The Certificate Holder will construct water, backup electricity and communications lines between the existing PGE Beaver Generating Plant and the energy facility. The Certificate Holder will install the lines below ground within existing roadways. Potable water may be conveyed to the energy facility in a pipeline from the potable water storage tank located in the vicinity of the PGE water intake facility that currently serves the PGE Beaver Generating Plant. The potable water pipeline will be about two inches in diameter. The Certificate Holder will install the potable water line underground. The potable water line will join the energy facility's water supply pipeline corridor at their intersection as shown on revised Figure B-2. [Amendment No. 1]

The Certificate Holder may also construct a demineralized water pipeline about four inches in diameter from the PGE Beaver Generating Plant to the energy facility. If the Certificate Holder constructs the demineralized water pipeline, it will not construct a water treatment building as part of the energy facility. The Certificate Holder will install a backup 13.8 kV electrical distribution line and a communications line in a conduit from the PGE Beaver Generating Plant to the energy facility. The demineralized water line, communications line, and backup electricity lines will be about 1, 200 feet long, and the portion of the potable water line between the potable water storage tank and the water supply pipeline corridor will be about 1,700 feet long. [Amendment No. 1]

**Electric Transmission Line.** The energy facility will deliver electric power to the regional grid by means of a new transmission line consisting of one 230 kV circuit on monopole towers (up to 120 feet high) routed along existing power line easements. There are two transmission line alternatives routes under consideration, with two other short alternative segments in the vicinity of the BPA Allston Substation:

> Alternative One. The first alternative will entail routing the transmission line from the energy facility to the Bonneville Power Administration ("BPA") Allston Substation near Alston, Oregon (a distance of about 10 miles).
>
> Alternative Two. The second alternative will entail routing the transmission line from the energy facility to the PGE Trojan Substation near Goble, Oregon (a distance of about 20 miles).

PWGP and the Summit Project present a unique situation regarding the transmission lines for their facilities. The two proposed energy projects will be located close to each other and will use the same existing transmission corridor and the same towers from Port Westward to the vicinity of the BPA Allston Substation, Alternative One. The towers will be double-circuited, with PWGP on one side and the Summit Project on the other.

The Portland General Electric Transmission Group will build the transmission lines for either or both projects, depending on which energy facilities are eventually constructed. The transmission line for each project is a related or supporting facility for that project, and therefore, must be built to Council standards. However, because the Council is reviewing the applications for both projects simultaneously, because they will use the same towers, and because the same company will build and operate the transmission lines, the Council has consolidated the reviews within the PWGP proceeding and is placing conditions for the transmission lines in the site certificate for the Port Westward Generating Project.

Some conditions account for the possibility that the ~~certificate holder~~ Certificate Holder may construct the Port Westward to BPA Allston Substation Transmission Line ~~may~~ separately from constructing the energy facility. Additionally, if the ~~certificate holder~~ Certificate Holder for PWGP does not construct the energy facility within the time specified in its ~~site certificate~~Site Certificate or if it terminates its ~~site certificate~~Site Certificate, the Council intends that the ~~certificate holder~~ Certificate Holder of the Summit Project must amend its ~~site certificate~~Site Certificate to include the 230 kV transmission line from the Summit Project to the BPA Allston Substation.

## C.2. LOCATION OF THE FACILITY

### C.2.a. The Energy Facility Site

The energy facility will be located about seven miles by road northeast of the city of Clatskanie in Columbia County, Oregon. The energy facility site will be located on an approximately 852-acre parcel leased to PGE by the Port of St. Helens in Section 15, Township 8 North, Range 4 West, Willamette Meridian. The energy facility site will be fenced and will comprise about ~~19~~ 17.5 acres of the larger parcel. [Amendment No. 1]

Bradbury Slough of the Columbia River lies to the northeast of the energy facility site. Access to the energy facility site will be by traveling about 1.5 miles north on Kallunki Road from its intersection with Alston-Mayger Road. The existing PGE Beaver Generating Plant is located about one-half mile southwest of the energy facility site.

### C.2.b. Related or Supporting Facility Sites

**Natural Gas Pipeline Corridor.** The proposed natural gas pipeline will be about 18 inches in diameter and will interconnect with the existing Kelso-Beaver Pipeline about 1,000 feet west of the energy facility site. The natural gas pipeline corridor will lie within the 852-acre parcel leased to PGE by the Port of St. Helens and situated within Section 15, Township 8 North, Range 4 West, Willamette Meridian.

**Water Supply Pipeline Corridor.** The proposed water supply pipeline will supply raw water to the energy facility from the existing PGE Beaver Generating Plant water intake structure in Bradbury Slough of the Columbia River. The pipeline right-of-way will be about 50 feet wide and 6,000 feet long, will cover an area of about 7 acres, and will lie within the 852-acre parcel leased to PGE by the Port of St. Helens and situated within Section 15, Township 8 North, Range 4 West, Willamette Meridian.

~~Reclaimed~~ **Wastewater Pipeline Corridor.** Water discharged from the energy facility will be returned to the Columbia River about one-half mile northwest of the energy facility. The ~~reclaimed water~~ wastewater pipeline corridor will be about 100 feet wide and 2,400 feet long, will cover an area of about 6 acres, and will lie primarily within the 852-acre parcel leased to PGE by the Port of St. Helens and situated within Section 15 and 16, Township 8 North, Range 4 West, Willamette Meridian. [Amendment No. 1]

**Utility Line Corridor Between the Energy Facility Site and the PGE Beaver Generating Plant.** The Certificate Holder will construct a potable water pipeline, backup electricity line, communications line and possibly a demineralized water pipeline from the PGE Beaver Generating Plant or the potable water tank to the energy facility site. It would install the lines a minimum depth of three feet below grade in existing roadways entirely with the 825-acre parcel that the Port of St. Helens has leased to PGE. The parcel is located within Section 15 and 22, Township 8 North, Range 4 West, Willamette Meridian. [Amendment No. 1]

**Transmission Line Corridor.** The transmission line will follow one of two alternative routes:

Alternative One. Under this alternative, the energy facility will deliver electric power to the BPA Allston Substation near Alston, Oregon, by means of a new 230-kV circuit on monopole steel structures, except where it will have to cross the existing BPA lines. A separate 230 kV circuit will carry the output of the Summit Project on the same structures, as noted above. The new transmission line will be routed on an existing PGE right-of-way that is 250 feet wide, except at the BPA Allston Substation where a new right-of-way may be required. The structures will be placed on or near the centerline of the unused north half of the right-of-way. The transmission line corridor will be about 125 feet wide and 10 miles long, will occupy an area of about 300 acres, and will pass through Sections 15, 22, 23, 26, 35 and 36, Township 8 North, Range 4 West, and Sections 31, 5, 6, 4, 3 and 10, Township 7 North, Range 3 West, Willamette Meridian.

Alternative Two. Under this alternative, the energy facility will deliver electric power to Trojan near Goble, Oregon, by means of a new 230-kV circuit on monopole steel structures. Between PWGP and the BPA Allston Substation, the new transmission line will be routed on an existing PGE right-of-way 250 feet wide as described in Alternative One. The structures will be placed on or near the centerline of the unused north half of the right-of-way. Between the BPA Allston Substation and Trojan, the new transmission line will run parallel to an existing BPA transmission line. This section of the transmission line corridor will be about 125 feet wide and ten miles long, will occupy an area of about 300 acres, and will pass through Sections 10, 11, 15, 14, 23 and 24, Township 7 North, Range 3 West, and Sections 19, 30, 29, 28, 33 and 34, Township 7 North, Range 2 West, and Sections 3 and 2, Township 6 North, Range 2 West, Willamette Meridian.

Alternates 3 and 4. These short alternate segments are in the vicinity of the BPA Allston Substation. They provide flexibility for interconnecting with the substation.

Unanalyzed Options. As shown on Figure C-2 of the ASC, and in particular the enlarged detail of the BPA Allston Substation, there is a segment of Alignment 1 identified as "2nd (future) circuit." This Site Certificate does not address that proposed segment of Alignment 1.

## D. COUNCIL SITING STANDARDS

### D.1. [PLACEHOLDER]

[No Conditions]

### D.2. ORGANIZATIONAL EXPERTISE

(1) The Certificate Holder shall report to the Office of Energy ("Office") in a timely manner any change in the ownership of Portland General Electric Company ("PGE").

(2) Before beginning construction of the energy facility, the Port Westward to Bonneville Power Administration ("BPA") Allston Substation Transmission Line, or other related or supporting facilities, the Certificate Holder shall identify to the Energy Facility Siting Council ("Council") whom it has chosen to act in the role of the engineering, procurement and construction ("EPC") contractor(s) for specific portions of the work.

(3) If the Certificate Holder chooses a third-party contractor to operate the facility, the Certificate Holder shall submit to the Council the identity of the contractor so the Council may review the qualifications and capability of the contractor to meet the standards of OAR 345-0022-0010. If the Council finds that a new contractor meets these standards, the Council shall not require an amendment to the Site Certificate for the Certificate Holder to hire the contractor.

(4) Any matter of non-compliance under this Site Certificate shall be the responsibility of the Certificate Holder. Any notice of violation issued under the Site Certificate will be issued to the Certificate Holder. Any civil penalties levied shall be levied on the Certificate Holder.

(5) The Certificate Holder shall contractually require the EPC contractor(s) and all independent contractors and subcontractors involved in the construction and operation of the facility to comply with all applicable laws and regulations and with the terms and conditions of the Site Certificate. Such contractual provision shall not operate to relieve the Certificate Holder of responsibility under the Site Certificate.

(6) The Certificate Holder shall obtain necessary state and local permits or approvals required for the construction, operation and retirement of the facility or ensure that its contractors obtain the necessary state and local permits or approvals.

(7) Before beginning construction of the energy facility, the Certificate Holder shall deliver to the Office a copy of the agreement between the Certificate Holder and the Port of St. Helens that provides that the Certificate Holder may use ~~at least~~ up to 8.3 cubic feet per second of the water right held by the Port of St. Helens under Permit to Appropriate the Public Waters, issued by the State of Oregon, Water Resources Department, Permit No. 53677. [Amendment No. 1]

(8) Before beginning construction of the energy facility, the Certificate Holder shall deliver to the Office evidence that the Oregon Department of Environmental Quality has issued to the Port of St. Helens a National Pollutant Discharge Elimination System ("NPDES") permit that provides for the discharge of non-sanitary wastewater from the Port Westward Industrial Site, including all non-sanitary wastewater produced by the energy facility.

(9) Before beginning construction of the energy facility, the Certificate Holder shall deliver to the Office a copy of the agreement between the Certificate Holder and the Port of St. Helens that provides for discharge of non-sanitary wastewater from the energy facility by means of the NPDES permit issued to the Port of St. Helens.

**D.3. RETIREMENT AND FINANCIAL ASSURANCE**

(1) The Certificate Holder shall retire the facility if the Certificate Holder permanently ceases construction or operation of the facility. The Certificate Holder shall retire the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110, and prepared pursuant to Condition D.3(2).

(2) Two years before closure of the energy facility, the Certificate Holder shall submit to the Office a proposed final retirement plan for the facility and site, pursuant to OAR 345-027-0110, including:

(a) A plan for retirement that provides for completion of retirement within two years of permanent cessation of operation of the energy facility and that protects the public health and safety and the environment;

(b) A description of actions the Certificate Holder proposes to take to restore the site to a useful, non-hazardous condition; and,

(c) A detailed cost estimate, a comparison of that estimate with the dollar amount secured by a bond or letter of credit and any amount contained in a retirement fund, and a plan for assuring the availability of adequate funds for completion of retirement.

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

(4) Notwithstanding Conditions D.3(1), D.3(2), and D.3(3), if the Certificate Holder begins construction of the Port Westward to BPA Allston Substation Transmission Line before beginning construction of the energy facility and other related or supporting facilities, Conditions D.3(1), D.3(2), and D.3(3) shall apply to that transmission line separately for as long as it is under construction or operation independent of the energy facility; and, a retirement plan that the Certificate Holder submits may provide that the Port Westward to BPA Allston Substation Transmission Line remains in operation to serve other energy facilities.

(5) Before beginning construction of the energy facility, the Certificate Holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in the amount of $8,640,000 (in 2002 dollars as of the second quarter) naming the State of Oregon, acting by and through the Council, as beneficiary or payee.

(a) If the Certificate Holder develops the energy facility in phases, then before beginning construction of Phase 1, the Certificate Holder shall submit a bond or letter of credit in the amount of $4,700,000 (in 2002 dollars as of the second quarter). Before beginning construction of Phase 2, the Certificate Holder shall increase the amount of such bond or letter of credit to $8,640,000 (in 2002 dollars as of the second quarter). [Amendment No. 1]

~~(a)~~(b) In the event the Certificate Holder begins construction of the Port Westward to BPA Allston Substation Transmission Line before beginning construction of the energy facility, the Certificate Holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in the amount of $394,000 (in 2002 dollars as of the second quarter).

~~(b)~~(c) If the Certificate Holder has previously begun construction of the Port Westward to BPA Allston Substation Transmission Line, the Certificate Holder shall increase the amount of such bond or letter of credit to $8,640,000 (in 2002 dollars as of the second quarter) before beginning construction of the energy facility. If the Certificate Holder develops the energy facility in phases, the Certificate Holder shall increase the amount of such bond or letter of credit to $4,700,000 (in 2002 dollars as of the second quarter) before beginning construction of Phase 1 and to $8,640,000 (in 2002 dollars as of the second quarter) before beginning construction of Phase 2. [Amendment No. 1]

~~(c)~~(d) The form of the bond or letter of credit and identity of the issuer shall be subject to approval by the Council.

~~(d)~~(e) The Certificate Holder shall maintain a bond or letter of credit in effect at all times until the energy facility or the Port Westward to BPA Allston Substation Transmission Line has been retired, as appropriate.

~~(e)~~(f) The calculation of 2002 dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the "Index"). If at any time the Index is no longer published, the Council shall select a comparable calculation of 2002 dollars.

~~(f)~~(g) The amount of the bond or letter of credit account shall increase annually by the percentage increase in the Index.

~~(g)~~(h) The Certificate Holder shall not revoke or reduce the bond or letter of credit before retirement of the facility without approval by the Council.

(6) The Certificate Holder shall describe in the annual report submitted to the Council, pursuant to OAR 345-026-0080, the status of the retirement fund or other instrument to ensure it has adequate funds to restore the site.

(7) Before beginning construction of the energy facility, the Certificate Holder shall prepare and submit to the Office a materials management and monitoring plan that addresses the handling of hazardous substances, the measures it will implement to prevent site contamination, and how it will document implementation of the plan during construction. The materials management and monitoring plan shall be subject to approval by the Office. For the purpose of this condition and Conditions D.3(8), D.3(10), D.3(11), and D.3(12) below, the terms "release" and "hazardous substances" shall have the meanings set forth at ORS 465.200.

(8) Before beginning operation of the energy facility, the Certificate Holder shall prepare and submit to the Office a materials management and monitoring plan that addresses the handling of hazardous substances, the measures it will implement to prevent site contamination, and how it will document implementation of the plan during operation. The materials management and monitoring plan shall be subject to approval by the Office.

(9) Not later than 10 years after the date of commercial operation of Phase 1 of the energy facility, and each 10 years thereafter during the life of the energy facility, the Certificate Holder shall complete an independent Phase I Environmental Site Assessment of the energy facility site. Within 30 days after its completion, the Certificate Holder shall deliver the Phase I Environmental Site Assessment report to the Office. [Amendment No. 1]

(10) In the event that any Phase I Environmental Site Assessment identifies improper handling or storage of hazardous substances or improper record keeping procedures, the Certificate Holder shall correct such deficiencies within six months after completion of the corresponding Phase I Environmental Site Assessment. It shall promptly report its

corrective actions to the Office. The Council shall determine whether the corrective actions are sufficient.

(11) The Certificate Holder shall report any release of hazardous substances, pursuant to DEQ regulations, to the Office within one working day after the discovery of such release. This obligation shall be in addition to any other reporting requirements applicable to such a release.

(12) If the Certificate Holder has not remedied a release consistent with applicable Oregon Department of Environmental Quality standards or if the Certificate Holder fails to correct deficiencies identified in the course of a Phase I Environmental Site Assessment within six months after the date of the release or the date of completion of the Phase I Environmental Site Assessment, the Certificate Holder shall submit within such six-month period to the Council for its approval an independently prepared estimate of the additional cost of remediation or correction.

(a) Upon approval of an estimate by the Council, the Certificate Holder shall increase the amount of its bond or letter of credit by the amount of the estimate.

(b) In no event, however, shall the Certificate Holder be relieved of its obligation to exercise all due diligence in remedying a release of hazardous substances or correcting deficiencies identified in the course of a Phase I Environmental Site Assessment.

(13) All funds received by the Certificate Holder from the salvage of equipment and buildings shall be committed to the restoration of the energy facility site to the extent necessary to fund the approved site restoration and remediation.

(14) The Certificate Holder shall pay the actual cost to restore the site to a useful, non-hazardous condition at the time of retirement, notwithstanding the Council's approval in the Site Certificate of an estimated amount required to restore the site.

(15) If the Council finds that the Certificate Holder has permanently ceased construction or operation of the facility without retiring the facility according to a final retirement plan approved by the Council, as described in OAR 345-027-0110 and prepared pursuant to Condition D.3(2), the Council shall notify the Certificate Holder and request that the Certificate Holder submit a proposed final retirement plan to the Office within a reasonable time not to exceed 90 days.

(a) If the Certificate Holder does not submit a proposed final retirement plan by the specified date or if the Council rejects the retirement plan that the Certificate Holder submits, the Council may direct the Office to prepare a proposed a final retirement plan for the Council's approval.

(b) Upon the Council's approval of the final retirement plan prepared pursuant to subsection (a), the Council may draw on the bond or letter of credit described in Condition D.3(5) and shall use the funds to restore the site to a useful, non-hazardous condition according to the final retirement plan, in addition to any penalties the Council may impose under OAR Chapter 345, Division 29.

(c) If the amount of the bond or letter of credit is insufficient to pay the actual cost of retirement, the Certificate Holder shall pay any additional cost necessary to restore the site to a useful, non-hazardous condition.

(d) After completion of site restoration, the Council shall issue an order to terminate the Site Certificate if the Council finds that the facility has been retired according to the approved final retirement plan.

## D.4. LAND USE

(1) Before beginning construction of the energy facility, the Certificate Holder shall submit a landscaping plan for the energy facility to Columbia County as part of its building permit application for the energy facility. The landscaping plan shall be subject to County approval, provided that the plan is consistent with this Site Certificate and the Final Order. The Certificate Holder shall implement the landscaping plan.

(2) Before beginning construction of the energy facility, the Certificate Holder shall submit a site plan to Columbia County as part of its building permit application.

(3) Before beginning construction of the energy facility, the Certificate Holder shall submit to Columbia County as part of its building permit application for the energy facility a final parking lot plan that complies with Section 1400 of the Columbia County Zoning Ordinance. The parking plan shall be consistent with this Site Certificate and Attachment D of the Final Order. The Certificate Holder shall implement the parking lot plan.

(4) Before beginning construction of the energy facility or the Port Westward to BPA Allston Substation Transmission Line, as appropriate, the Certificate Holder shall apply for and obtain all appropriate land use permits from Columbia County and the City of Rainier.

(5) Before beginning construction of the energy facility, the Certificate Holder shall enter into a written contract with Columbia County that recognizes the rights of land owners who are adjacent to and nearby the corridor for the transmission line from the BPA Allston Substation to the Trojan Nuclear Plant where it crosses PF-76 and FA-19 zones to conduct forest operations consistent with the Forest Practices Act and Rules for uses authorized in OAR 660-006-0025, subsections (4)(e), (m), (s), (t), and (w).

## D.5. STRUCTURAL STANDARD

(1) The Certificate Holder shall design, engineer and construct the facility to avoid dangers to human safety presented by seismic hazards affecting the site that are expected to result from all maximum probable seismic events. In no event shall the recommended seismic design parameters be any less than those prescribed by the Oregon Uniform Building Code. As used in this condition, "seismic hazard" includes ground shaking, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence.

(2) If the Certificate Holder does not have subsurface information for design of the transmission lines that is acceptable to the Office and the Oregon Department of Geology and Mineral Industries ("DOGAMI"), then the Certificate Holder shall drill exploratory borings at critical locations during final design of the proposed transmission lines.

(3) Before beginning construction of the facility, the Certificate Holder shall provide the Office and DOGAMI with a report containing results of geotechnical investigations and recommendations for the design of the energy facility, transmission lines and other related or supporting facilities.

(a) The Certificate Holder shall prepare the report consistent with the study designs detailed in the Section D.5 of the Final Order and Section H.3 of the Application for a Site Certificate ("ASC").

(b) If DOGAMI is not able to review the reports, the Office shall arrange, in consultation with DOGAMI, for an independent review of the report by a qualified registered geologist.

(c) If the Certificate Holder begins construction of the Port Westward to BPA Allston Substation Transmission Line before beginning construction of other parts of the facility, Condition D.5(3) shall apply only to the Port Westward to BPA Allston Substation Transmission Line as long as it is the only part of the facility under construction.

(4) In addition to, or concurrent with Condition D.5(3), before beginning construction within the City of Rainier's Watershed zone, the Certificate Holder shall submit to the City of Rainier, the Office and DOGAMI a geotechnical report prepared by a registered engineer establishing that it can safely accomplish any construction in a known slide hazard area, flood hazard area, or drainage way, or on slopes exceeding 20 percent in that zone.

(5) If the geotechnical investigation reveals evidence that is not described in the ASC, the Certificate Holder shall revise the facility design parameters to comply with appropriate Uniform Building Code requirements.

(6) The Certificate Holder shall notify the Office, the State Building Codes Division and DOGAMI promptly if site investigations or trenching reveals that subsurface conditions

differ significantly from those described in the ASC. After the Office receives the notice, the Council may require the Certificate Holder to consult with DOGAMI and the Building Codes Division and to propose mitigation actions.

(7) The Certificate Holder shall notify the Office, the Building Codes Division and DOGAMI promptly if shear zones, artesian aquifers, deformations, or clastic dikes are found at or in the vicinity of the facility site.

(8) The Certificate Holder shall design, engineer and construct the facility to avoid dangers to human safety presented by non-seismic or aseismic hazards affecting the site. As used in this condition, "non-seismic or aseismic hazards" includes settlement, landslides, groundwater, flooding, and erosion.

**D.6. SOIL PROTECTION**

(1) Upon completion of construction in an area, the Certificate Holder shall use native seed mixes to restore vegetation to the extent practicable and shall landscape portions of the site disturbed by construction in a manner compatible with the surroundings and proposed use. Conditions D.6(1) through D.6(6) shall apply to all soil disturbing activities, including maintenance, repair, ~~or~~ reconstruction, and retirement of facilities. [Amendment No. 1]

(2) The Certificate Holder shall employ the following measures to control soil erosion and sediment runoff by water and wind erosion:

(a) Avoid excavation and other soil disturbances beyond that necessary for construction of the facility or confine equipment use to specific areas.

(b) Remove vegetation only as necessary.

(c) Apply water or mulch, as necessary, for wind erosion control during construction.

(d) Revegetate those construction areas that will no longer be used.

(e) Use temporary erosion and sediment control measures, such as sediment fences, straw wattles, bio-filter bags, mulch, permanent and temporary seeding, sediment traps and/or basins, rock check dams or gravel filter berms, and gravel construction entrances, and maintain these features throughout construction and restoration to reduce the potential for soil erosion and sediment runoff.

(f) Protect soil stockpiles with mulch and plastic sheeting.

(3) If excessively wet conditions occur during construction, the Certificate Holder shall limit construction activities during such periods to the degree practicable in areas susceptible to soil compaction.

(4) After completing construction in an area, the Certificate Holder shall monitor the construction area for a period of 12 months to evaluate whether construction-related impacts to soils are being adequately addressed by the mitigation procedures described in the Sediment Erosion and Control Plan. It shall submit its quality assurance measures to the Office for approval before beginning monitoring.

(5) After completing construction in an area, the Certificate Holder shall use the results of the monitoring program in Condition D.6(4) to identify remaining soil impacts associated with construction that require mitigation. As necessary, the Certificate Holder shall implement follow-up restoration measures to address those remaining impacts and shall report in a timely manner to the Office what measures it has taken.

(6) The Certificate Holder shall remove trapped sediment when the capacity of the sediment trap has been reduced by 50 percent and shall place such sediment in an upland area certified by a qualified wetland specialist.

(7) The Certificate Holder shall contain all fuel and chemical storage in paved spill containment areas with a curb.

(8) The Certificate Holder shall design all inside spill containment areas to hold at least 110 percent of the volume of liquids stored within them.

(9) The Certificate Holder shall design all spill containment areas located outdoors to hold at least 110 percent of the volume of liquids stored within them, together with the volume of precipitation that might accumulate during the 100-year return frequency storm.

(10) During operation, the Certificate Holder shall minimize drift from the cooling towers through the use of high efficiency drift eliminators that allow no more than 0.002 percent drift.

**D.7. PROTECTED AREAS**

[No Conditions]

**D.8. FISH AND WILDLIFE HABITAT**

(1) The Certificate Holder shall, to the extent practicable, avoid and, where avoidance is not possible, minimize construction and operation disturbance to areas of native vegetation and areas that provide important wildlife habitat. With respect to construction of the facility, the Certificate Holder shall mitigate possible impacts to wildlife by measures including, but not limited to, the following:

(a) Posting speed limit signs throughout the energy facility construction zone.

(b) Instructing construction personnel, including construction contractors and their personnel, on sensitive wildlife of the area and on required precautions to avoid injuring or destroying wildlife.

(c) Instructing construction personnel, including construction contractors and their personnel, to watch out for wildlife while driving through the facility site, to maintain reasonable driving speeds so as not to harass or strike wildlife accidentally, and to be cautious and drive at slower speeds in a period from one hour before sunset to one hour after sunrise when some wildlife species are the most active.

(d) Requiring construction personnel, including construction contractors and their personnel, to report any injured or dead wildlife detected at the facility site.

(2) The Certificate Holder shall construct, operate and retire the facility to minimize impacts to vegetation and habitat.

(a) The energy facility shall be located within previously disturbed Habitat Category 6, non-native grassland Habitat Category 4, and palustrine emergent and forested/scrub-shrub wetlands Habitat Category 3.

(b) The Certificate Holder shall limit Habitat Category 3 impacts to 0.43 acres of permanent impact within palustrine emergent and forested/scrub-shrub wetlands.

(3) The Certificate Holder shall site transmission towers outside wetlands and waterways to the greatest extent practicable. If the Certificate Holder must site transmission towers in riparian zones or wetlands, the Certificate Holder shall use a monopole design for the transmission towers to minimize ground impacts and vegetation control, except where it would have to cross the existing BPA lines.

(4) The Certificate Holder shall prohibit construction and maintenance equipment from entering perennial and intermittent streams, except as follows:

(a) Construction equipment may cross a stream if it is dry;

(b) Construction equipment may cross streams that are not dry by using temporary structures to bridge the stream in a manner that minimizes disturbance to the bed, banks and water of the stream;

(c) Construction equipment may cross a wet stream if the Certificate Holder notifies the Division of State Lands, the Oregon Department of Fish and Wildlife ("ODFW") and the Office of its intent to cross the stream prior to the crossing and these agencies concur that the crossing is acceptable.

(A) The Certificate Holder shall return any stream bed or bank that it disturbs during construction or maintenance to conditions that are comparable to

pre-disturbed conditions, including stabilizing the bed and banks and revegetating the riparian area with appropriate plant species.

(B) The Certificate Holder shall construct wet stream crossings within the ODFW-designated in-water work period.

(C) The Certificate Holder shall keep the wet stream crossing width to the minimum needed.

(5) The Certificate Holder shall take advantage of existing roads to the extent practicable.

(6) Before beginning construction of the energy facility or beginning construction of the transmission lines, and in the appropriate season, the Certificate Holder shall conduct wildlife surveys within 0.25 miles of the site to locate great blue heron rookeries. Should it locate rookeries, the Certificate Holder shall consult with ODFW and the Office to determine the action necessary to avoid adverse impacts. If it cannot avoid impacts, the Certificate Holder shall suspend construction in the affected areas during the critical nesting period of the species, as determined by the Office in consultation with ODFW.

(7) During construction of Phase 1 of the energy facility, the Certificate Holder shall relocate the existing osprey nest platform to an ODFW-approved location for the period between October 1 and March 30. [Amendment No. 1]

(8) Before beginning construction of the facility, the Certificate Holder shall conduct pre-construction surveys within the analysis area and establish construction buffers around raptor nests during the nesting season, as approved by ODFW. If it is not practical for the Certificate Holder to avoid the nests of non-listed, threatened or endangered raptor species, the Certificate Holder shall implement in a timely manner a mitigation project approved by ODFW that meets the requirements of the Habitat Mitigation policy for "no net loss" appropriate to the Habitat Category.

(9) The Certificate Holder shall schedule construction at the existing raw water intake pump station to avoid the purple martin nesting season (April 1 through June 30). Before beginning construction at the existing raw water intake pump station, the Certificate Holder shall conduct a survey to determine the exact location of any purple martin nests. Should the Certificate Holder cause unavoidable impacts to occur to any purple martin nest, it shall construct, install and maintain an artificial nest site at a nearby location. It shall pick an appropriate location in consultation with ODFW and the Office.

(10) When working around riparian areas or waterways, the Certificate Holder shall use only herbicide labeled for use in those areas. The Certificate Holder shall abide by all labeling instructions when using herbicides for vegetation maintenance associated with the energy facility and transmission lines rights-of-way.

(11) The Certificate Holder shall locate chemical storage, servicing of construction and maintenance equipment and vehicles, and overnight storage of wheeled vehicles at least 330 feet from any wetland or waterway.

(12) The Certificate Holder shall not construct any structure (other than fences and signs) within 50 feet of any Class I river, stream or the emergent vegetation adjacent to such a river or stream or within 25 feet of any other rivers, streams, and sloughs or the emergent vegetation adjacent to such a river, stream, or slough.

(13) To mitigate for impacts to 19 acres of non-native grassland, the Certificate Holder shall protect 19 acres of on-site emergent wetland habitat identified in the ASC by execution of a conservation easement for the life of the energy facility. Before beginning construction of Phase 1 of the energy facility, the Certificate Holder shall provide a copy of the conservation easement or similar conveyance to the Office. [Amendment No. 1]

(14) The Certificate Holder shall restore temporary upland and wetland disturbance areas by returning the areas to their original grade and seeding, with appropriate seed mixes as recommended by ODFW and as shown in Table P-7 (ASC, Exhibit P, page P-34), and by mulching the areas with straw. The Certificate Holder shall obtain ODFW and Office concurrence before changing the proposed seed mix.

(15) The Certificate Holder shall not clear any more riparian vegetation than is necessary for the permitted land use, including clearing required for safety purposes, during construction or operation of the facility.

(16) During construction of the transmission line(s) and maintenance of the rights-of-way, the Certificate Holder shall limit clearing of vegetation in riparian areas and wetlands to that needed to prevent contact with the transmission line and to meet clearance standards for safety and transmission line reliability.

(17) The Certificate Holder shall mitigate for impacts to riparian shrub and forest habitat that result in canopy cover of less than 25 percent by revegetating these areas with appropriate native woody species according to the Typical Revegetation Plan (ASC, Exhibit Q, page Q-6.1).

(18) The Certificate Holder shall, as soon as practicable and appropriate after completing construction in an area, implement the mitigation measures specified in Conditions D.8(13), D.8(14) and D.8(17).

(19) The Certificate Holder shall monitor revegetated areas for a period of five years and shall ensure that new vegetation has an 80 percent survival rate.

(20) The Certificate Holder shall monitor and control nuisance and invasive plant species annually for a period of five years in areas where vegetation removal and/or revegetation has occurred in (1) riparian areas and wetlands along the transmission line rights-of-way,

and (2) in areas temporarily disturbed by construction of the raw water, gas, and process water discharge lines.

(21) The Certificate Holder shall submit an annual monitoring report to ODFW and the Office during the five-year monitoring period specified in Condition D.8(20).

(22) Within one year after completion of construction of the facility or the Port Westward to BPA Allston Substation Transmission Line, if constructed separately, the Certificate Holder shall provide a summary report to ODFW and the Office that identifies the revegetation actions it took and the results of revegetation monitoring conducted to that time. If the Certificate Holder constructs the energy facility in phases, the Certificate Holder shall provide the summary report to ODFW and the Office within one year after completion of each phase. [Amendment No. 1]

(23) Within three months after completion of the final annual monitoring survey, the Certificate Holder shall provide a report to ODFW and the Office that presents the results of its revegetation monitoring.

(24) If revegetation is not successful at establishing appropriate plant cover and controlling erosion, the Certificate Holder shall take remedial actions as the Office directs.

## D.9 THREATENED AND ENDANGERED SPECIES

(1) Before beginning construction of the transmission line between the BPA Allston Substation and the Trojan Nuclear Plant, the Certificate Holder shall direct qualified personnel to conduct species ground surveys along the transmission line corridor and within 150 feet on either side of the transmission line corridor at the appropriate time of year to determine the presence of listed plant species. If listed plant species are identified in the course of the species ground surveys, their presence shall be noted on maps, and PGE shall provide copies of the maps to the Office and the Department of Agriculture.

(2) During construction of the transmission lines, the Certificate Holder shall manipulate construction equipment and site poles, towers and access roads to avoid impacts, except as provided in Condition D.9(4), to known populations of state- or federally-listed plant species.

(3) The Certificate Holder shall ensure that all maintenance practices along the transmission line corridor minimize impacts to known populations of listed plant species.

(4) In the event the Certificate Holder determines that it cannot avoid known populations of listed plant species, the Certificate Holder shall engage qualified personnel to determine whether the proposed action has the potential to reduce appreciably the likelihood of the survival or recovery of the listed species, notify the Office of its findings, and obtain approval from the Oregon Department of Agriculture before proceeding with construction activities that affect the listed plant species. (OAR 603-073-0090).

(5) Before beginning construction of the transmission line, the Certificate Holder shall employ measures to protect raptors in the design and construction of transmission lines. It shall design all energized transmission conductors with either a minimum separation of nine feet or other measures to reduce the potential for electrocution of raptors or other birds.

(6) The Certificate Holder shall not construct at the transmission line terminus at the Trojan Nuclear Plant during the critical peregrine falcon nesting period from January 1 to June 30.

(7) The Certificate Holder shall plant suitable vegetative species for deer forage and cover within the wetland mitigation/enhancement area.

(8) The Certificate Holder shall coordinate with ODFW about whether to conduct site-specific fish sampling at waterways that do not have confirmation of species presence or absence along the transmission line corridor. If ODFW recommends that the Certificate Holder conduct site-specific sampling, the Certificate Holder shall do so and report the results to ODFW and the Office.

**D.10. SCENIC AND AESTHETIC VALUES**

(1) During construction of the facility, the Certificate Holder shall ensure that contractors move equipment out of the construction area when it is no longer expected to be used. To the extent practical, contractors shall lower equipment with long arms, such as cranes, bucket trucks, backhoes, when not in use in order to minimize visibility.

(2) During construction of the facility, the Certificate Holder shall control dust through the application of water.

(3) During construction of the energy facility, the Certificate Holder shall use directing and shielding devices on lights to minimize off-site glare. When there is no nighttime construction activity, the Certificate Holder shall minimize night lighting consistent with safety and security requirements.

(4) During operation of the energy facility, the Certificate Holder shall use directing and shielding devices on lights to minimize off-site glare, consistent with safety and security requirements.

(5) Before beginning construction of the energy facility, the Certificate Holder shall submit to Columbia County and the Office an outdoor lighting plan that shows how it will minimize glare from the energy facility site, consistent with Conditions D.10(3) and D.10(4).

(6) The Certificate Holder shall paint structures with low-glare paint in colors selected to complement the surrounding foreground and background colors.

(7) After completion of construction of related and supporting pipelines in an area, the Certificate Holder shall re-vegetate any undeveloped areas disturbed by construction activities using native species, including grasses, shrubs, and trees. If necessary, the Certificate Holder shall water re-vegetated areas on a regular basis until the plant species have been successfully established.

## D.11. HISTORIC, CULTURAL AND ARCHAEOLOGICAL RESOURCES

(1) Before beginning construction of the Port Westward to BPA Allston Substation Transmission Line or the BPA Allston Substation to Trojan Transmission Line, the Certificate Holder shall complete an archaeological survey of the approved transmission line corridors in consultation with the Oregon Historic Preservation Office ("SHPO"), the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of the Siletz Indian Reservation of Oregon, the Chinook Tribe in Washington, and appropriate federal agencies~~, document its findings, and present those findings to the Office~~. The Certificate Holder shall ensure that a qualified archaeologist evaluates all cultural resources identified during the cultural resources survey. The Certificate Holder shall report to SHPO and the Office about whether its archaeologist recommends that a discovery is significant or not significant. If SHPO determines that a discovery is significant, the Certificate Holder shall make recommendations to the Council for mitigation in consultation with SHPO, the Office, the tribes, and other appropriate parties. Mitigation measures shall include avoidance or data recovery. [Amendment No. 1]

(2) During construction of the facility, the Certificate Holder shall ensure that a qualified person instructs construction personnel in the identification of cultural materials.

(3) During construction of the facility, in the event any artifacts or other cultural materials are identified, the Certificate Holder shall cease all ground-disturbing activities until a qualified archaeologist can evaluate the significance of the find. The Certificate Holder shall report to SHPO and the Office about whether its archaeologist recommends the artifacts or cultural materials are significant or not significant. If ~~the archaeologist or~~ SHPO determines that the materials are significant, the Certificate Holder shall make recommendations to the Council for mitigation in consultation with SHPO, the Office, the tribes, and other appropriate parties. Mitigation measures shall include avoidance or data recovery. The Certificate Holder shall not restart work in the affected area until it has demonstrated to the Office that it has complied with the archaeological permit requirements administered by SHPO. [Amendment No. 1]

(4) The Certificate Holder shall allow monitoring by the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of the Siletz Indian Reservation of Oregon, and the Chinook Tribe in Washington of earth-moving activities within any areas with a potential for containing archaeological remains.

(5) Before beginning construction of the facility or of the Port Westward to BPA Allston Substation Transmission Line separately, the Certificate Holder shall notify the Confederated Tribes of the Warm Springs Indian Reservation of Oregon, the Confederated Tribes of the Grand Ronde Community of Oregon, the Confederated Tribes of the Siletz Indian Reservation of Oregon, and the Chinook Tribe in Washington and provide their representatives the opportunity to be available for periodic on-site monitoring during construction activities. If the Certificate Holder constructs the energy facility in phases, the Certificate Holder shall notify the Tribes prior to construction of each phase. [Amendment No. 1]

## D.12. RECREATION

[No Conditions]

## D.13. PUBLIC SERVICES

(1) During construction, the Certificate Holder shall hire a contractor to provide chemical toilet services or other appropriate facilities for construction personnel.

(2) The Certificate Holder shall pay to Columbia County or its designee the appropriate Transportation Improvement Contribution ("TIC") set forth in Section 2.1 of the Agreement between Columbia County and Portland General Electric Company dated June 5, 2002 ("Agreement").

(3) The Certificate Holder shall not agree to amend the Agreement with Columbia County to reduce, revoke or waive the requirement for payment of the appropriate TIC without prior approval of the Council; however, such approval by the Council shall not require an amendment to the Site Certificate.

(4) Before beginning construction of the energy facility, the Certificate Holder shall coordinate with Columbia County the improvement and maintenance of signage and striping at the mainline rail crossing on Kallunki Road, including the installation of "**DO NOT STOP ON TRACKS**" signs.

(5) If construction of the energy facility occurs concurrently with construction of other projects in the Port Westward Industrial Area, the Certificate Holder shall coordinate with other users of the Port Westward Industrial Area to provide a carpooling program that identifies and/or creates park-and-ride locations to facilitate carpooling.

(6) If construction of the energy facility occurs concurrently with construction of other projects in the Port Westward Industrial Area, the Certificate Holder shall coordinate with Columbia County and other users of the Port Westward Industrial Area on the implementation of a staggered shift schedule if Columbia County determines that traffic conditions warrant it.

(7) During construction of the energy facility, the Certificate Holder shall use barge and railroad deliveries of bulk materials to the extent practicable to minimize the number of freight truck deliveries on local roads.

(8) The Certificate Holder shall construct a fire protection system within the buildings and yard areas of the energy facility site that meets the requirements of the Uniform Fire Code, as amended by Oregon and the National Fire Protection Association standards, and all other applicable fire protection standards in effect at the time of construction.

(9) The Certificate Holder shall provide a dedicated reserve capacity of 180,000 gallons in the raw water storage tank to serve as the fire suppression water source.

(10) For fire truck access, the minimum inside turning radius of curves in the road system on the energy facility site shall be 40 feet.

**D.14. WASTE MINIMIZATION, OAR 345-022-0120**

(1) During construction, operation and retirement of the energy facility, the Certificate Holder shall separate recyclable materials from the solid waste stream to the extent practicable, store those materials on site until sufficient quantities exist to make recycling economic, and periodically deliver or sell those materials to a recycling facility.

(2) During construction, operation and retirement of the energy facility, the Certificate Holder shall segregate all used oil, mercury-containing lights, and lead-acid and nickel-cadmium batteries, store such materials on site, and deliver such materials to a recycling firm specializing in the proper disposal of such materials.

(3) Upon completion of construction, the Certificate Holder shall dispose of all temporary structures not required for facility operation and all timber, brush, refuse, and flammable or combustible material resulting from clearing of land and construction of the facility.

(4) During operation of the energy facility, the Certificate Holder shall convey all storm water and water discharges other than sanitary sewage to pervious areas to allow for percolation into the shallow groundwater.

(5) During operation of the energy facility, the Certificate Holder shall use internal recycling of aqueous streams whereby water shall be recycled several times in the cooling system before being discharged.

**D.15. CARBON DIOXIDE STANDARD**

(1) Before beginning construction of the energy facility, the Certificate Holder shall submit to The Climate Trust a bond or letter of credit in the amount of the monetary path payment requirement (in 2002 dollars) as determined by the calculations set forth in Condition D.15(3) and based on the estimated heat rates and capacities certified pursuant to Condition D.15(4) and as adjusted in accordance with the terms of this Site Certificate pursuant to Condition D.15(3)(c). For the purposes of this Site Certificate, the "monetary path payment requirement" means the offset funds determined pursuant to OAR 345-024-0550 and -0560 and the selection and contracting funds that the Certificate Holder must disburse to The Climate Trust, as the qualified organization, pursuant to OAR 345-024-0710 and this Site Certificate. The offset fund rate for the monetary path payment requirement shall be $0.85 per ton of carbon dioxide (in 2002 dollars). The calculation of 2002 dollars shall be made using the Index set forth in Condition D.3(5)~~(e)~~ and as required below in subsection (g). [Amendment No. 1]

(a) The form of the bond or letter of credit and identity of the issuer shall be subject to approval by the Council.

(b) The form of the Memorandum of Understanding "MOU") between the Certificate Holder and the Climate Trust establishing the disbursement mechanism to transfer selection and contracting funds and offset funds to The Climate Trust shall be substantially in the form of Attachment A to this Site Certificate.

(c) Either the Certificate Holder or The Climate Trust may submit to the Council for the Council's resolution any dispute between the Certificate Holder and The Climate Trust that concerns the terms of the bond, letter of credit, or MOU concerning the disbursement mechanism for the monetary path payments, or any other issues related to the monetary path payment requirement. The Council's decision shall be binding on all parties.

(d) The bond or letter of credit shall remain in effect until such time as the Certificate Holder has disbursed the full amount of the monetary path payment requirement to The Climate Trust. The Certificate Holder may reduce the amount of the bond or letter of credit commensurate with payments it makes to The Climate Trust. The bond or letter of credit shall not be subject to revocation before disbursement of the full monetary path payment requirement.

(e) In the event that the Council approves a new Certificate Holder for the energy facility:

(A) The new Certificate Holder shall submit to the Council for the Council's approval the form of a bond or letter of credit that provides comparable security to the bond or letter of credit of the current Certificate Holder. The Council's approval of a new bond or letter of credit shall not require a site certificate amendment.

(B) The new Certificate Holder shall submit to the Council for the Council's approval the form of an MOU between the new Certificate Holder and The Climate Trust that is substantially in the form of Attachment A to this Site Certificate. In the case of a dispute between the new Certificate Holder and The Climate Trust concerning the disbursement mechanism for monetary path payments or any other issues related to the monetary path payment requirement, either party may submit the dispute to the Council for the Council's resolution as provided in Condition D.15(1)(c). Council approval of a new MOU shall not require a site certificate amendment.

(f) If calculations pursuant to Condition D.15(5) demonstrate that the Certificate Holder must increase its monetary path payments, the Certificate Holder shall increase the bond or letter of credit sufficiently to meet the adjusted monetary path payment requirement within the time required by Condition D.15(3)(c). Alternately, the Certificate Holder may disburse any additional required funds directly to The Climate Trust within the time required by Condition D.15(3)(c).

(g) The amount of the bond or letter of credit shall increase annually by the percentage increase in the Index, and the disbursement of funds shall be pro-rated within the year to the date of disbursement to The Climate Trust from the calendar quarter of Council approval of the Site Certificate.

(2) The Certificate Holder shall disburse to The Climate Trust offset funds and selection and contracting funds as requested by The Climate Trust. The Certificate Holder shall make disbursements in response to requests from The Climate Trust in accordance with subsections (a), (b), and (c).

(a) The Certificate Holder shall disburse all selection and contracting funds to The Climate Trust before beginning construction.

(b) Upon notice pursuant to subsection (c), The Climate Trust may request from the issuer of the bond or letter of credit the full amount of all offset funds available or it may request partial payment of offset funds at its sole discretion. Notwithstanding the specific amount of any contract to implement an offset project, The Climate Trust may request up to the full amount of offset funds the Certificate Holder is required to provide to meet the monetary path payment requirement.

(c) The Climate Trust may request disbursement of offset funds by providing notice to the issuer of the bond or letter of credit that The Climate Trust has executed a letter of intent to acquire an offset project. The Certificate Holder shall provide that the issuer of the bond or letter of credit disburse offset funds to The Climate Trust within three business days of a request by The Climate Trust for the offset funds in accordance with the terms of the bond or letter of credit.

(3) The Certificate Holder shall submit all monetary path payment requirement calculations to the Office for verification in a timely manner before submitting a bond or letter of credit for Council approval and before entering into an MOU with The Climate Trust. The Certificate Holder shall use the contracted design parameters for capacities and heat rates that it reports pursuant to Condition D.15(4) to calculate the estimated monetary path payment requirement, along with the estimated annual hours of operation of power augmentation technologies. The Certificate Holder shall use the Year One Capacities and Year One Heat Rates that it reports for the facility pursuant to Condition D.15(5) to calculate whether it owes additional monetary path payments.

(a) The net carbon dioxide emissions rate for the base load gas plant shall not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis, as defined in OAR 345-001-0010.

(b) The net carbon dioxide emissions rate for incremental emissions for the facility operating with power augmentation technologies that increase the capacity and heat rate of the facility above the capacity and heat rate that it can achieve as a base load gas plant on a new and clean basis ("power augmentation technologies") shall not exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric power output, with carbon dioxide emissions and net electric power output measured on a new and clean basis, as the Office may modify such basis pursuant to Condition D.15(4)(d).

(c) When the Certificate Holder submits the Year One Test reports required in Condition D.15(5), it shall increase its monetary path payments if the calculation using reported data shows that the adjusted monetary path payment requirement exceeds the monetary path payment requirement for which the Certificate Holder had provided a bond or letter of credit before beginning construction, pursuant to Condition D.15(1). The Certificate Holder shall submit its calculations to the Office for verification.

(A) The Certificate Holder shall make the appropriate calculations and fully disburse any increased funds directly to The Climate Trust within 30 days of filing the Year One Test reports.

(B) In no case shall the Certificate Holder diminish the bond or letter of credit it provided before beginning construction or receive a refund from The Climate Trust based on the calculations made using the Year One Capacities and the Year One Heat Rates.

(4) The Certificate Holder shall include an affidavit certifying the heat rates and capacities reported in subsections (a) and (b).

(a) Before beginning construction of the energy facility, the Certificate Holder shall notify the Council in writing of its final selection of a gas turbine vendor and heat recovery steam generator vendor and shall submit written design information to the Council sufficient to verify the base-load gas plant's designed new and clean heat rate (higher heating value) and its net power output at the average annual site condition.

(b) Before beginning construction of the energy facility, the Certificate Holder shall submit written design information to the Council sufficient to verify the facility's designed new and clean heat rate and its net power output at the average annual site condition when operating with power augmentation technologies.

(c) Before beginning construction of the energy facility, the Certificate Holder shall specify the estimated annual average hours that it expects to operate the power augmentation technologies.

(d) Upon a timely request by the Certificate Holder, the Office may approve modified parameters for testing the power augmentation technologies on a new and clean basis, pursuant to OAR 345-024-0590(1). The Office's approval of modified testing parameters for power augmentation technologies shall not require a site certificate amendment.

(5) Within the first 12 months of commercial operation of the energy facility, the Certificate Holder shall conduct a 100-hour test at full power without power augmentation technologies ("Year One Test-1") and a test at full power with power augmentation technologies ("Year One Test-2"). A 100-hour test performed for purposes of the Certificate Holder's commercial acceptance of the facility shall suffice to satisfy this condition in lieu of testing after beginning commercial operation.

(a) Year One Test-1 shall determine the actual heat rate ("Year One Heat Rate-1") and the net electric power output ("Year One Capacity-1") on a new and clean basis, without degradation, with the results adjusted for the average annual site condition for temperature, barometric pressure, and relative humidity, and using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel pursuant to OAR 345-001-0010(35).

(b) Year One Test-2 shall determine the actual heat rate ("Year One Heat Rate-2") and net electric power output ("Year One Capacity-2") for the facility operating with power augmentation technologies, without degradation, with the results adjusted for the average annual site condition for temperature, barometric pressure and relative humidity, and using a rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel pursuant to OAR 345-001-0010(35). The full power test shall be 100 hours duration unless the Office has approved a different duration pursuant to Condition (4)(d).

(c) The Certificate Holder shall notify the Office at least 60 days before conducting the tests required in subsections (a) and (b) unless a shorter time is mutually agreed upon.

(d) Before conducting the tests required in subsections (a) and (b), the Certificate Holder shall, in a timely manner, provide to the Office a copy of the protocol for conducting the tests.

(e) Within two months after completing the Year One Tests, the Certificate Holder shall provide to the Council a report of the results of the Year One Tests.

(6) If calculations pursuant to Condition D.15(7) demonstrate that the Certificate Holder must supplement its monetary path payments ("supplemental monetary path payment requirement"), the Certificate Holder shall provide a bond or letter of credit sufficient to meet the supplemental monetary path payment requirement within the time required by Condition D.15(7)(b). The bond or letter of credit shall not be subject to revocation before disbursement of the supplemental monetary path payment requirement. Alternately, the Certificate Holder may disburse in cash any such supplemental monetary path payments directly to The Climate Trust within the time required by Condition D.15(7).

(7) The Certificate Holder shall submit all supplemental monetary path payment requirement calculations to the Office for verification. The Certificate Holder shall use the Year One Capacity-2 and Year One Heat Rate-2 that it reports for the facility pursuant to Condition D.15(5)(b) to calculate whether it owes supplemental monetary path payments, pursuant to subsections (a) and (b).

(a) Each five years after beginning commercial operation of the energy facility ("five-year reporting period"), the Certificate Holder shall report to the Office the annual average hours the facility operated with power augmentation technologies during that five-year reporting period, pursuant to OAR 345-024-0590(6). The Certificate Holder shall submit five-year reports to the Office within 30 days of the anniversary date of beginning commercial operation of the energy facility.

(b) If the Office determines that the energy facility exceeds the projected net total carbon dioxide emissions calculated pursuant to Conditions D.15(4) and D.15(5), prorated for five years, during any five-year reporting period described in subsection (a), the Certificate Holder shall offset excess emissions for the specific reporting period according to subsection (A) and shall offset the estimated future excess emissions according to subsection (B), pursuant to OAR 345-024-0600(4). The Certificate Holder shall offset excess emissions using the monetary path as described in OAR 345-024-0710, except that contracting and selecting funds shall equal twenty (20) percent of the value of any offset funds up to the first $250,000 (in 2002 dollars) and 4.286 percent of the value of any offset funds in excess of $250,000 (in 2002 dollars). The Certificate Holder shall disburse the funds to The

Climate Trust within 30 days after notification by the Office of the amount that the Certificate Holder owes.

(A) In determining the excess carbon dioxide emissions that the Certificate Holder must offset for a five-year period, the Office shall apply OAR 345-024-0600(4)(a). The Certificate Holder shall pay for the excess emissions at $0.85 per ton of carbon dioxide emissions (in 2002 dollars). The Office shall notify the Certificate Holder and The Climate Trust of the amount of payment required, using the monetary path, to offset excess emissions.

(B) The Office shall calculate estimated future excess emissions and notify the Certificate Holder of the amount of payment required, using the monetary path, to offset them. To estimate excess emissions for the remaining period of the deemed 30-year life of the facility, the Office shall use the parameters specified in OAR 345-024-0600(4)(b). The Certificate Holder shall pay for the estimated excess emissions at $ 0.85 per ton of carbon dioxide (in 2002 dollars). The Office shall notify the Certificate Holder of the amount of payment required, using the monetary path, to offset future excess emissions.

(8) The combustion turbine for the base-load gas plant and power augmentation technologies shall be fueled solely with pipeline quality natural gas or with synthetic gas with a carbon content per million Btu no greater than pipeline-quality natural gas.

(9) With respect to incremental capacity and fuel consumption increases for which the Certificate Holder has not previously complied with the carbon dioxide standard, the Certificate Holder shall comply substantially with Conditions D.15(1) through D.15(8) in lieu of the Council's requiring an amendment, provided that:

(a) The Council determines, pursuant OAR 345-027-0050, that the Certificate Holder does not otherwise require an amendment, and further provided that:

(b) The Certificate Holder shall meet the appropriate carbon dioxide emissions standard and monetary offset rate in effect at the time the Council makes its determination pursuant to OAR 345-027-0050.

(10) Notwithstanding Conditions D.15(1) through d.15(9), if the Certificate Holder begins construction of the Port Westward to BPA Allston Substation Transmission Line, but no other part of the energy facility or other related or supporting facilities, the Certificate Holder shall not be required to comply with Conditions D.15(1) through D.15(9). The Certificate Holder shall comply with Conditions D.15(1) through D.15(9) in connection with construction of any part of the energy facility or related or supporting facilities other than the Port Westward to BPA Allston Substation Transmission Line.

(11) If the Certificate Holder begins construction of Phase 1, but not Phase 2, the Certificate Holder shall comply with Conditions D.15(1) through D.15(9) ~~in connection with construction of~~ for Phase 1. If the Certificate Holder later begins construction of Phase 2, the Certificate Holder shall comply with Conditions D.15(1) through D.15(9) ~~in connection with the construction of~~ for Phase 2. [Amendment No. 1]

## E. OTHER APPLICABLE REGULATORY REQUIREMENTS:

### E.1. REQUIREMENTS UNDER COUNCIL JURISDICTION

#### E.1.a. Noise

(1) During construction of the facility, the Certificate Holder shall schedule most heavy construction to occur during daylight hours. Construction work at night shall be limited to work inside buildings and other structures when possible.

(2) During construction of the facility, the Certificate Holder shall require contractors to equip all combustion engine-powered equipment with exhaust mufflers.

(3) During construction of the energy facility, transmission lines or other related or supporting facilities, the Certificate Holder shall establish a complaint response system at the construction manager's office to address noise complaints.

(4) Within six months after the start of commercial operation of the energy facility, the Certificate Holder shall retain a qualified noise specialist to measure noise levels associated with the energy facility operation when environmental conditions are expected to result in maximum sound propagation between the source and the receivers and when the energy facility is operating in a typical operations mode that produces maximum noise levels.

(a) The specialist shall measure noise levels at sites (1), (2), (5), and (6), as described in Exhibit X of the ASC, to determine if actual noise levels are within the levels specified in the applicable noise regulations in OAR 345-035-0035(1)(b)(B)(i).

(b) The Certificate Holder shall report the results of the noise evaluation to the Office.

(c) If actual noise levels do not comply with applicable DEQ regulations, the Certificate Holder shall take those actions necessary to comply with the regulations as soon as practicable.

(d) If initial measurements show that actual noise levels increase at site (5) by 7 dBA or more, the Certificate Holder shall measure the noise levels as specified in this condition and shall repeat the process outlined in subsections (a), (b), and (c) for site (5) within six months after completion of the initial measurements.

(5) The Certificate Holder shall install silencers on short duration noise sources (e.g. steam vents) from the heat recovery steam generator.

**E.1.b. Wetlands and Removal/Fill Permit**

(1) Before beginning construction of Phase 1 of the energy facility or the Port Westward to BPA Allston Substation Transmission Line, as appropriate, the Certificate Holder shall obtain a U.S. Army Corps of Engineers and Oregon Division of State Lands Joint Removal/Fill Permit substantially in the form of the Removal/Fill Permit in Attachment C; provided, that mitigation required under the Removal/Fill Permit shall allow for accommodation of Corps of Engineers mitigation requirements, subject to the concurrence of the Office, in consultation with the Division of State Lands and affected federal agencies. [Amendment No. 1]

(2) The Certificate Holder shall comply with state laws and rules applicable to the Removal/Fill Permit that are adopted in the future to the extent that such compliance is required under the respective statutes and rules.

**E.1.c. Public Health and Safety**

(1) If local public safety authorities notify the Certificate Holder and the Office that the operation of the energy facility is contributing significantly to ground level fogging or icing along public roads and is likely to pose a significant threat to public safety, the Certificate Holder shall cooperate with local public safety authorities regarding the posting of warning signs on affected roads and the implementation of other reasonable safety measures.

(2) The Certificate Holder shall design the transmission lines and backup electricity lines so that alternating current electric fields shall not exceed 9 kV per meter at one meter above the ground surface in areas accessible to the public. [Amendment No. 1]

(3) The Certificate Holder shall design the transmission lines and backup electricity lines so that induced currents and voltage resulting from the transmission lines are as low as reasonably achievable. [Amendment No. 1]

(4) The Certificate Holder shall develop and implement a program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or other objects or structures of a permanent nature that could become inadvertently charged with electricity are grounded or bonded throughout the life of the transmission line.

(5) The Certificate Holder shall restore or mitigate the reception of radio and television at residences and commercial establishments in the primary reception area to the level present before operation of the transmission line at no cost to residents or businesses experiencing interference resulting from the transmission line.

(6) The Certificate Holder shall design, construct and operate the transmission lines and backup electricity lines in accordance with the requirements of the National Electrical Safety Code. [Amendment No. 1]

(7) The Certificate Holder shall take reasonable steps to reduce or manage exposure to electromagnetic fields (EMF), consistent with Council findings presented in the "Report of EMF Committee to the Energy Facility Siting Council," March 30, 1993, and subsequent findings. Effective on the date of this Site Certificate, the Certificate Holder shall provide information to the public, upon request, about EMF levels associated with the energy facility and related transmission lines and backup electricity lines. [Amendment No. 1]

(8) At least 30 days before beginning preparation of detailed design and specifications for the electrical transmission line(s) and backup electricity line(s) or the natural gas pipeline, the Certificate Holder shall consult with the Oregon Public Utility Commission staff to ensure that its designs and specifications are consistent with applicable codes and standards. [Amendment No. 1]

(9) With respect to the related or supporting natural gas pipeline, the Certificate Holder shall design, construct and operate the pipeline in accordance with the requirements of the U.S. Department of Transportation as set forth in Title 49, Code of Federal Regulations, Part 192.

**E.1.d. Water Pollution Control Facilities Permit**

(1) Before beginning commercial operation of Phase 1 of the energy facility, the Certificate Holder shall demonstrate that the DEQ has issued to the Certificate Holder a Water Pollution Control Facilities Permit, substantially in the form of Attachment B.1, allowing for on-site sanitary waste disposal. [Amendment No. 1]

(2) The Certificate Holder shall comply with state laws and rules applicable to Water Pollution Control Facilities Permits that are adopted in the future to the extent that such compliance is required under the respective statutes and rules.

## F. CONDITIONS REQUIRED OR RECOMMENDED BY COUNCIL RULES

### F.1. MANDATORY CONDITIONS IN SITE CERTIFICATES

**Amendment of Site Certificate**

(1) The Council shall not change the conditions of the Site Certificate except in accordance with the applicable provisions of OAR 345, Division 27, in effect on the date of the Council action.

**Legal Description**

(2) Before beginning construction of Phase 1 of the energy facility, the Certificate Holder shall submit to the Office a legal description of the site, except as provided in OAR 345-027-0023(6). [Amendment No. 1]

**General Requirements**

(3) The Certificate Holder shall design, construct, operate, and retire the facility:

(a) Substantially as described in the Site Certificate;

(b) In compliance with the requirements of ORS Chapter 469, applicable Council rules, and applicable state and local laws, rules and ordinances in effect at the time the Council issues the Site Certificate; and,

(c) In compliance with all applicable permit requirements of other state agencies.

**Construction Rights on Site**

(4) Except as necessary for the initial survey or as otherwise allowed for transmission lines or pipelines in this condition, the Certificate Holder shall not begin construction, as defined in OAR 345-001-0010, or create a clearing on any part of the site until the Certificate Holder has construction rights on all parts of the site. For the purpose of this condition, "construction rights" means the legal right to engage in construction activities. For transmission lines or pipelines, if the Certificate Holder does not have construction rights on all parts of the site, the Certificate Holder may nevertheless begin construction or create a clearing on a part of the site if:

(a) The Certificate Holder has construction rights on that part of the site; and,

(b) The Certificate Holder would construct and operate part of the facility on that part of the site even if a change in the planned route of the transmission line or pipeline occurs during the Certificate Holder's negotiations to acquire construction rights on another part of the site.

**Beginning and Completing Construction.**

(5) The Certificate Holder shall begin construction of the energy facility by November 8, 2004. Beginning construction of the Port Westward to BPA Allston Substation Transmission Line shall not satisfy this requirement.

(a) The Certificate Holder shall report promptly to the Office the date that it began construction of the facility, as defined in OAR 345-001-0010. In reporting the beginning of construction, the Certificate Holder shall briefly describe all work on the site performed before beginning construction, including work performed before the Council issued the Site Certificate and work performed to construct the Port Westward to BPA Allston Substation Transmission Line, and shall state the cost of that work, pursuant to OAR 345-026-0048. If the Certificate Holder

constructs the energy facility in phases, the Certificate Holder shall report the beginning of construction of each phase. [Amendment No. 1]

(b) If the Certificate Holder begins construction of the Port Westward to BPA Allston Substation Transmission Line, as defined in OAR 345-001-0010, prior to beginning construction of the energy facility, it shall promptly report to the Office the date it began construction of the transmission line.

(6) The Certificate Holder shall complete construction of the facility by May 8, 2007. The completion of construction date is the day by which (1) the facility is substantially complete as defined by the Certificate Holder's construction contract documents; (2) acceptance testing is satisfactorily completed; and, (3) the energy facility is ready to commence continuous operation consistent with the Site Certificate. Completion of construction of the Port Westward to BPA Allston Substation Transmission Line separately shall not satisfy this requirement.

(a) The Certificate Holder shall report promptly to the Office the date it completed construction of the facility. If the Certificate Holder constructs the energy facility in phases, the Certificate Holder shall report the date of completion of each phase. [Amendment No. 1]

(b) If the Certificate Holder completes construction of the Port Westward to BPA Allston Substation Transmission Line separately before completing construction of the facility, it shall promptly report that date to the Office.

(c) Separate completion of construction of Port Westward to BPA Allston Substation Transmission Line shall be the date that PGE makes it available to the Summit/Westward Project to transmit energy.

## F.2 OTHER CONDITIONS BY RULE

**Incident Reports**

(1) With respect to the related or supporting natural gas pipeline, the Certificate Holder shall submit to the Office copies of all incident reports required under 49 CFR §192.709 that involve the pipeline.

**Rights-of-Way**

(2) Before beginning operation of the energy facility, the Certificate Holder shall submit to the Office a legal description of the permanent right-of-way where the Certificate Holder has built a pipeline or transmission line within an approved corridor. The site of the pipeline or transmission line subject to the Site Certificate is the area within the permanent right-of-way. However, if the Certificate Holder completes construction of the Port Westward to BPA Allston Substation Transmission Line before beginning construction of the energy facility, the Certificate Holder shall submit to the Office a

legal description of the permanent right-of-way for that segment of that transmission line, notwithstanding OAR 345-027-0023(6).

**Monitoring Programs**

(3) If the Certificate Holder becomes aware of a significant environmental change or impact attributable to the facility, the Certificate Holder shall, as soon as possible, submit a written report to the Office describing the impact on the facility and its ability to comply with any affected Site Certificate conditions.

**Compliance Plans**

(4) Before beginning construction of the facility, the Certificate Holder shall implement a plan that verifies compliance with all Site Certificate terms and conditions and applicable statutes and rules. The Certificate Holder shall submit a copy of the plan to the Office. The Certificate Holder shall document the compliance plan and maintain it for inspection by the Office or the Council. However, if the Certificate Holder begins construction of the Port Westward to BPA Allston Substation Transmission Line before beginning construction of the energy facility, the applicable compliance plan shall relate to that phase of construction.

**Reporting**

(5) Within six months after beginning any construction, and every six months thereafter during construction of the energy facility and related or supporting facilities, the Certificate Holder shall submit a semi-annual construction progress report to the Council. In each construction progress report, the Certificate Holder shall describe any significant changes to major milestones for construction. When the reporting date coincides, the Certificate Holder may include the construction progress report within the annual report described in Condition F.2(6).

(6) The Certificate Holder shall, within 120 days after the end of each calendar year after beginning construction, submit an annual report to the Council that addresses the subjects listed in OAR 345-026-0080(2). The Council secretary and the Certificate Holder may, by mutual agreement, change the reporting date.

(7) To the extent that information required by OAR 345-026-0080(2) is contained in reports the Certificate Holder submits to other state, federal or local agencies, the Certificate Holder may submit excerpts from such other reports. The Council reserves the right to request full copies of such excerpted reports.

**Schedule Modification**

(8) The Certificate Holder shall promptly notify the Office of any changes in major milestones for construction, decommissioning, operation, or retirement schedules. Major milestones are those identified by the Certificate Holder in its construction, retirement or decommissioning plans.

**Correspondence with Other State or Federal Agencies**

(9) The Certificate Holder and the Office shall exchange copies of all correspondence or summaries of correspondence related to compliance with statutes, rules and local ordinances on which the Council determined compliance, except for material withheld from public disclosure under state or federal law or under Council rules. The Certificate Holder may submit abstracts of reports in place of full reports; however, the Certificate Holder shall provide full copies of abstracted reports and any summarized correspondence at the request of the Office.

**Notification of Incidents**

(10) The Certificate Holder shall notify the Office within 72 hours of any occurrence involving the facility if:

(a) There is an attempt by anyone to interfere with its safe operation;

(b) A natural event such as an earthquake, flood, tsunami or tornado, or a human-caused event such as a fire or explosion affects or threatens to affect the public health and safety or the environment; or,

(c) There is any fatal injury at the facility.

## G. GENERAL CONDITIONS

(1) The general arrangement of the Port Westward Generating Project shall be substantially as shown in the ASC.

(2) The Certificate Holder shall ensure that related or supporting facilities are constructed in the corridors described in this Order and as shown in ASC and in the manner described in this Order and the ASC.

(3) During construction and operation of the energy facility, the Certificate Holder shall house the combustion turbine in an enclosure that provides thermal insulation, acoustical attenuation, and fire extinguishing media containment and that would allow access for routine inspection and maintenance.

**Successors and Assigns**

(4) Before any transfer of ownership of the facility or ownership of the Certificate Holder, the Certificate Holder shall inform the Office of the proposed new owners. The requirements OAR 345-027-0100 shall apply to any transfer of ownership that requires a transfer of the Site Certificate.

**Severability and Construction**

(5) If any provision of this Site Certificate is declared by a court to be illegal or in conflict with any law, the validity of the remaining terms and conditions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the Site

Certificate did not contain the particular provision held to be invalid. In the event of a conflict between the conditions contained in the Site Certificate and the Council's Order, the conditions contained in this Site Certificate shall control.

**Governing Law and Forum**

(6) This Site Certificate shall be governed by the laws of the State of Oregon.

(7) Any litigation or arbitration arising out of this agreement shall be conducted in an appropriate forum in Oregon.

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

ENERGY FACILITY SITING COUNCIL

By: Roslyn Elms-Sutherland Date: ~~November 8, 2002~~ December 5, 2003
Dr. Roslyn Elms-Sutherland, Chair

PORTLAND GENERAL ELECTRIC COMPANY

By: Ron W. Johnson Date: ~~November 12, 2002~~
Ron W Johnson, vice president of Power Supply Engineering and Strategy

**ATTACHMENT A** *[NO CHANGE]*
MEMORANDUM OF UNDERSTANDING: MONETARY PATH PAYMENT REQUIREMENT

**ATTACHMENT B** [NO *CHANGE]*
WATER POLLUTION CONTROL FACILITIES PERMIT (B.1) AND ANALYSIS (B.2)

**ATTACHMENT C** *[NO CHANGE]*
REMOVAL/FILL PERMIT

CERTIFICATE OF SERVICE

I hereby certify that on the 19th day of December, 2003, I served the Final Order in the Matter of the Site Certificate for the Port Westward Generating Project Request for Amendment No. One and the First Amended Site Certificate for the Port Westward Generating Project on the following named person(s):

Kristin Udvari
Ball Janik LLP
101 SW Main Street, Suite1100
Portland, OR 97204-3219
Attorney for Portland General Electric

Janet L. Prewitt
Assistant Attorney General
Oregon Department of Justice
1152 Court Street NE
Salem, OR 97301
Attorney for Oregon Department of Energy

Arya Behbehani-Divers
Power Supply Engineering Services
Portland General Electric Company
121 SW Salmon Street
Portland, OR 97204

by causing a true copy of the above-listed document to be served by mailing with postage prepaid in a sealed enveloped, addressed to person(s) at the last-known address(es) indicated above.

DATED: December 19, 2003

Samuel R. Sadler
Oregon Department of Energy