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6

7 **B. Description of the Facility**

8 The Council granted the Site Certificate for the facility on November 8, 2002, and
9 amended the Site Certificate on December 5, 2003, and September 24, 2004. It issued the
10 Final Orders for the Site Certificate and the First and Second Amended Site Certificates
11 (“Final Orders”) on the same dates, respectively.
12

13 The facility is a 560 megawatt (“MW”) natural-gas-fired, combined-cycle generating
14 facility. The facility will be located in Columbia County, Oregon, about seven miles by
15 road northeast of the City of Clatskanie. PGE has not begun construction of the facility.
16

17 **II. Description of the Proposed Amendment**

18 OAR 345-027-0060(1)(c) requires that an amendment request include “a detailed
19 description of the proposed change and certificate holder’s analysis of the proposed change
20 under the criteria of OAR 345-027-0050(1).” PGE included some changes for information
21 to the Council, but they do not require Site Certificate amendments. The proposed changes
22 to the energy facility include the following:
23

24 **A. Changes to Energy Facility:**
25

- 26 (1) Auxiliary boiler: PGE proposed to include an auxiliary boiler at the energy facility
27 site as part of Phase 1. The auxiliary boiler would be included within the footprint
28 previously identified for Phase 1. The auxiliary boiler would be installed to supply
29 steam for plant start-ups and short duration shut-downs. During start-ups this steam
30 would be used for cooling the combustion components of the gas turbine and
31 supplying the steam turbine steam seal system. During short duration plant shut-
32 downs, it would supply steam to the steam turbine steam supply piping to decrease
33 the start-up time. The auxiliary boiler would use natural gas fuel. PGE expects it
34 to operate about 751 hours per year. The auxiliary boiler designed fuel use would
35 be about 91 million Btu/hr at full load.
36
- 37 (2) Construction and operation of switchyard as part of Phase 1: The Site Certificate
38 currently includes the switchyard as part of Phase 2. PGE proposed to construct the
39 switchyard as part of Phase 1 of the energy facility. This would be only a change in
40 timing, not a change in the overall impact of the energy facility.
41
- 42 (3) Seven-cell cooling tower: Phase 1 would include a 7-cell cooling tower. Previous
43 site plans have shown a total of 10 cooling tower cells for Phases 1 and 2
44 combined. This change does not require an amendment to the text of the Site
45 Certificate, because Section C.1.a of the Site Certificate describes only the
46 dimensions of the cooling towers (“cooling towers and circulating water pumps will

1 cover an area of about 75 feet by 650 feet and will stand about 50 feet high”). The
2 7-cell cooling tower would be within the dimensions described in the Site
3 Certificate.
4

- 5 (4) Deer exclusion fencing: PGE proposed to build a deer-exclusion fence around the
6 energy facility site to keep deer out of the energy facility site. The Application for a
7 Site Certificate (“ASC”) discussed "deer-friendly" fencing at the bottom of page Q-
8 27 (March 2002 version): "If fencing is proposed at the new power plant, 'deer-
9 friendly' fencing will be used to minimize injuring or killing deer. Deer habits will
10 be considered during design of the fence." The ASC should have used the term
11 “deer exclusion fencing.” “Friendly” fences are generally installed in a manner that
12 allows deer to pass through, over or under safely. In other words, it doesn't prevent
13 deer from reaching the other side of the fence. An “exclusion” fence is meant to do
14 just the opposite. It prevents deer from getting to the other side of the fence; so it is
15 built in such a manner that prevents deer passage. An “exclusion” fence is needed
16 to keep deer from entering the energy facility. The Site Certificate does not
17 expressly address the type of fence that will surround the energy facility. Therefore,
18 no change to current Site Certificate conditions is required.
19

20 **B. Additions or Changes to Related or Supporting Facilities**
21

- 22 (1) Spoils disposal area: As shown on Figure B-2 (Attachment 5, revised December 9,
23 2004), PGE proposed to use about 11.6 acres for disposal of excess soils from
24 construction of the energy facility. Excess soils from the energy facility
25 construction site would be spread across the spoils site. The spoils site would be
26 revegetated in accordance with existing Site Certificate conditions.
27
- 28 (2) Temporary construction staging and laydown area: PGE proposed to use a
29 construction staging and laydown area of 6.3 acres that would be located northwest
30 of the energy facility site. (See revised Figure J-1.4, submitted December 9, 2004).
31 PGE would clear the laydown area of trees and shrubs and then cover it with gravel
32 over a layer of geotech fabric. PGE would use the laydown area for storing
33 equipment and materials and as a staging area for constructing the power plant.
34 PGE would demarcate near-by wetland #4 during construction to prevent any
35 impacts on that wetland.
36
- 37 (3) New buildings at intake structure. PGE proposed to construct two small structures
38 near the existing PGE water intake structure on Bradbury Slough. One structure,
39 about 20 feet by 30 feet, would be for chlorination. One structure, about 10 feet by
40 15 feet, would be for electrical control. Underground lines would connect these
41 structures to the intake structure. The structures and underground connection
42 would be in a previously developed and disturbed area that is currently covered
43 with gravel.
44

1 (4) Increase in size of demineralized water pipeline from Beaver Generating Plant to
2 energy facility site: The Site Certificate, Section C.1.b, described the demineralized
3 water line from the PGE Beaver Generating Plant to the energy facility as “about
4 4 inches in diameter.” PGE proposed to use a line of up to 6 inches in diameter to
5 meet its needs. The location of the line would be the same as indicated in PGE’s
6 Request for Amendment No. One.

7
8 (5) Outfall connection to Port wastewater system: PGE has changed the dimension of
9 the outfall pipe to the Port of St. Helens wastewater disposal system on Figure B-2.
10 This does not require an amendment to the Site Certificate because the dimension
11 of the outfall pipe is not described in the Site Certificate.

12
13 (6) Transmission realignment and changes in transmission locations:

14 (a) Adjacent to the Bonneville Power Administration’s (“BPA”) Allston
15 Substation: PGE proposed to move the transmission alternative described
16 in the ASC as Alternative 4 to the east in the vicinity of the Allston
17 Substation. PGE requested authorization for two possible corridors: one
18 alignment would be immediately west of Heath Road, while the other
19 alignment would have three transmission towers located on the east side of
20 Heath Road. Neither minor realignment would require any changes to Site
21 Certificate conditions. PGE provided a revised Figure J-1.10 showing the
22 east-side option of the realignment on December 16, 2004.

23
24 (b) South of Allston Substation: PGE proposed to locate one transmission
25 tower slightly further north in Alternative 4 in order to avoid wetlands. This
26 would result in a small triangular area of new transmission corridor, about
27 0.77 acres, that was not included in the ASC. This minor realignment does
28 not require any changes to Site Certificate conditions.

29
30 (c) Trojan Heights: PGE would place one transmission tower would in a
31 slightly different location to avoid a steep, unstable side slope. No changes
32 to Site Certificate conditions are required.

33
34 **C. Other Proposed Changes to the Site Certificate**

35 PGE also proposed changes to Site Certificate conditions that are not directly related to
36 new or modified facilities.

37
38 (1) Reduction in the required retirement funds: PGE has revised its estimate of the
39 required retirement funds, based on the methodology that Site Certificate Holders
40 used to obtain Council approval for the retirement fund estimates for the COB
41 Energy Facility and the Summit Westward Project. The methodology results in a
42 lower estimate of retirement funds.

43
44 (2) New conditions and modification of certain conditions regarding habitat protection.
45 PGE proposed to eliminate a condition relating to moving an artificial nest platform

1 with an unused osprey nest near the energy facility site and to change limitations on
2 construction activities near a peregrine falcon nest close to the Trojan switchyard.
3 It incorporated changes proposed by ODFW into its proposed conditions.
4

5 Based on comments by ODFW, PGE proposed a new condition to monitor the
6 impact of the operation of the energy facility on bald eagles that have built a nest
7 within one-half mile of the energy facility site since the Council granted the Site
8 Certificate. The new condition requires the Certificate Holder to provide mitigation
9 measures to meet the goals of Habitat Category 2 if monitoring indicates that the
10 operation of the energy facility is affecting the near-by bald eagles' nest.
11

12 **III. Procedural History**

13 **A. Department of Energy Review Steps**

14 **1. The Certificate Holder's Request**

15 PGE submitted the Request for Third Amendment to the Site Certificate for the Port
16 Westward Generating Project on November 3, 2004. In response to the Department of
17 Energy's ("Department") questions, it amended its request and provided additional
18 information in support of its amendment requests in correspondence on December 8, 9,
19 13, and 16, 2004,
20

21 **2. Notice to the Site Certificate Holder**

22 On November 30, 2004, the Department mailed notice to PGE, pursuant to OAR 345-027-
23 0070(1)(c), that it would issue a proposed order no later than December 15, 2004, provided
24 it received timely responses to the requests for information that it had submitted to PGE.
25 The Department issued the proposed order on December 16, 2004, due to delays in
26 response to its questions.
27

28 **3. Review by Other Agencies, Local Governments, and Tribes**

29 The Department, pursuant to OAR 345-027-0070(1)(a), identified potentially affected
30 agencies, local governments, and tribes and asked them to review the request for
31 amendment. The Department mailed a copy of the amendment request along with a review
32 report form on November 5, 2004, to those agencies, local governments and tribes and
33 asked them to reply by November 30, 2004. The Department sent the request to the
34 following agencies, local governments and tribes:
35

36 Department of Geology and Mineral Industries	Department of Fish and Wildlife
37 Department of State Lands	Department of Agriculture
38 Water Resources Department	Department of Parks and Recreation
39 State Historic Preservation Office	Department of Environmental Quality
40 Office of State Fire Marshall	Public Utilities Commission
41 Oregon Building Codes Division	Department of Forestry
42 Northwest Power and Conservation Council	Department of Transportation
43 Dept. of Land Conservation and Development	Department of Aviation
44 City of Astoria	City of Rainier
45 City of Saint Helens	City of Clatskanie

1 City of Columbia City Columbia County
2 Confederated Tribes of the Grand Ronde Clatsop County
3 Confederated Tribes of the Warm Springs Chinook Indian Tribe
4 Confederated Tribes of the Siletz

5

6 **4. Replies**

7 On November 12, 2004, the Department of State Lands (“DSL”) e-mailed the Department
8 of Energy, PGE and PGE’s wetlands consultant a series of comments and questions about
9 the wetland delineation for the proposed changes. On December 9 and 16, 2004, PGE
10 responded. On December 16, DSL concurred that the proposed changes would not affect
11 wetlands.

12

13 On December 2, 2004, the ODFW met with PGE and Department staff and Department
14 consultants concerning the proposed changes to conditions that relate to wildlife and the
15 recent nesting of bald eagles near the energy facility site. On December 9, 2004, ODFW
16 submitted comments that concurred in PGE’s proposal regarding the osprey nest and the
17 reliance on a federal Biological Opinion and Incidental Take Statement for the bald eagles’
18 nest. ODFW also recommended a new condition regarding habitat for the bald eagles’ nest
19 and recommended modifications to the condition relating to the peregrine falcon nest at the
20 Trojan Nuclear Plant. On December 13, 2004, PGE concurred with ODFW’s suggested
21 new condition regarding habitat for the eagles’ nest and ODFW’s suggested change to the
22 condition regarding the peregrine falcon nest. PGE requested that ODFW’s
23 recommendations be incorporated into its request as PGE-proposed conditions. The
24 changes are incorporated in Section IV.A, below.

25

26 No other agency, local government, or tribe stated objections to the requested amendment
27 or recommended conditions.

28

29 **5. Initial Public Notice**

30 On November 5, 2004, the Department mailed a notice of the request for amendment to all
31 persons on the Council’s general mailing list and persons on the Council’s special mailing
32 list for the Project, pursuant to OAR 345-027-0070(1)(b). The notice asked for comments
33 to the Department by November 30, 2004.

34

35 **6. Public Comments on the Request**

36 The Department received no comments from the public on the request for amendment.

37

38 **7. Proposed Order**

39 The Department issued its proposed order on December 16, 2004.

40

41 **8. Public Notice of Proposed Order**

42 On December 17, 2004, the Department mailed a notice of its proposed order to all persons
43 on the Council’s general mailing list and persons on the Council’s special mailing list for
44 the Project, pursuant to OAR 345-027-0070(1)(b). The notice asked for comments to the
45 Department by January 18, 2005.

1
2 **9. Public Comments on the Proposed Order**

3 The Department received no written comments on the proposed order and no requests for a
4 contested case. It received several requests for information about the amendment request.
5

6 **B. Council Review Steps**

7 **1. Council Notice**

8 The Department mailed the request for amendment and a memo summarizing the request
9 to the Council on November 5, 2004. On December 17, 2004, the Department mailed the
10 proposed order to the Council and to persons who had requested it.
11

12 **2. Council Action on the Amendment Request**

13 On January 28, 2005, the Council took action on the amendment request during its regular
14 meeting in Tigard, Oregon.
15

16 **IV. Proposed Changes to Site Certificate**

17 Under OAR 345-027-0050, a Site Certificate amendment request is required if a Certificate
18 Holder proposes to change the site boundary or otherwise to design, construct, operate or
19 retire a facility in a manner different from the description in the Site Certificate and the
20 proposed change meets one of four criteria, discussed below. PGE's proposed changes
21 trigger a Site Certificate amendment pursuant to the following criteria:
22

23 1(a) *“Could result in a significant adverse impact that the Council did not*
24 *evaluate and address in the final order granting a site certificate affecting any*
25 *resource protected by applicable standards in Divisions 22 and 24 of this chapter.”*
26 The proposed changes trigger a Site Certificate amendment because the changes
27 will result in an energy facility plan that differs from the description in the Site
28 Certificate. Specifically, the proposed changes involve revisions to the site
29 boundary and the facility design, including related or supporting facilities.
30

31 1(b) *“Could result in a significant adverse impact that the Council did not*
32 *evaluate and address in the final order granting a site certificate affecting*
33 *geographic areas or human, animal or plant populations.”* The requested
34 amendments would expand the geographic areas affected by the proposed facility.
35 There are also potential impacts on bald eagles that have nested near the energy
36 facility site since the Council issued the Final Orders granting the Site Certificate.
37

38 1(c) *“Could impair the certificate holder's ability to comply with a site*
39 *certificate condition; or”* As shown in Section IV below, PGE proposed to amend
40 the Site Certificate in order to authorize the Certificate Holder to implement the
41 proposed changes to the facility.
42

43 1(d) *“Could require a new condition or change to a condition in the site*
44 *certificate.”* As shown below in Section IV, the PGE requested amendments to the

1 Site Certificate. The amendments to the Site Certificate include the new conditions
2 described below
3

4 **A. Site Certificate Holder's Proposed Changes**

5 OAR 345-027-0060(1)(d) requires that a Certificate Holder include in a request for an
6 amendment to a Site Certificate "The specific language of the site certificate, including
7 affected conditions, that the certificate holder proposes to change, add or delete by an
8 amendment." PGE proposed changes to specific conditions of the Site Certificate are
9 shown below with additions double-underlined and deletions shown by strikethrough.
10 Where changes are self-evident, there is no discussion. Page numbers refer to the Second
11 Amended Site Certificate.
12

13 **1. Title Page and Page 1:**

14 ~~Second~~Third Amended Site Certificate for the Port Westward Generating Project.
15

16 **2. Page 1, Section A, Introduction:**

17 This site certificate for the Port Westward Generating Project ("PWGP or Project") is
18 issued and executed in the manner provided by ORS Chapter 469, by and between the
19 State of Oregon ("State"), acting by and through its Energy Facility Siting Council
20 ("Council"), and the Portland General Electric Company ("PGE" or "Certificate
21 Holder").
22

23 The findings of fact, reasoning and conclusions of law underlying the terms and
24 conditions of this site certificate are set forth in the following documents, which by
25 this reference are incorporated herein: (a) the Council's Final Order in the Matter of
26 the Application for a Site Certificate for the Port Westward Generating Project, which
27 the Council granted on November 8, 2002; (b) the Council's Final Order in the
28 Matter of the Site Certificate for the Port Westward Generating Project Request for
29 Amendment No. One, which the Council granted on December 5, 2003; ~~and~~ (c) the
30 Council's Final Order in the Matter of the Site Certificate for the Port Westward
31 Generating Project Request for Amendment No. Two, which the Council granted on
32 September 24, 2004. ~~[Amendments No. 1 & 2];~~ and (d) the Council's Final Order in
33 the Matter of the Site Certificate for the Port Westward Generating Project Request
34 for Amendment No. Three, which the Council granted on _____.
35 [Amendments No. 1, 2 & 3]
36

37 In interpreting this site certificate, any ambiguity shall be clarified by reference to,
38 and in the following priority: this Site Certificate, the record of the proceedings
39 which led to the Final Order, and the Application for a Site Certificate for the Port
40 Westward Generating Project. As used in this Site Certificate, the "application for
41 site certificate" or the "ASC" includes: (a) the Application for a Site Certificate for
42 the Port Westward Generating Project, which the Office of Energy ("Office") filed on
43 April 11, 2002; (b) the Certificate Holder's Request for First Amendment to the Site
44 Certificate for the Port Westward Generating Project, which the Council received on
45 October 25, 2003; ~~and~~ (c) the Certificate Holder's Request for Second Amendment to

1 the Site Certificate for the Port Westward Generating Project, which the Council
2 received on May 7, 2004; and (d) the Certificate Holder's Request for Third
3 Amendment to the Site Certificate for the Port Westward Generating Project, which
4 the Council received on November 3, 2004. [Amendments No. 1 & 1, 2 & 3]

5 ***

6
7 **3. Page 3, Section B, Site Certification (10):**

8 The Certificate Holder may develop the energy facility in two phases. Phase 1 would
9 consist of the southernmost generating unit ("Unit 1"), including one combustion
10 turbine generator, heat recovery steam generator, steam generator, one step-up
11 transformer bank, auxiliary transformer, and cooling tower. Phase 1 would also
12 include all of the energy facility components common to the two units and the related
13 or supporting facilities, ~~except the switchyard.~~ Phase 2 would consist of the
14 northernmost generating unit ("Unit 2"), and its associated facilities ~~and the~~
15 ~~switchyard.~~ All conditions of this Site Certificate apply equally to Phase 1 and Phase
16 2, unless a condition specifies different obligations for Phase 1 or Phase 2.
17 [~~Amendment~~Amendments No. 1 & 3]

18
19 **Discussion.** PGE proposed to revise the description of the phasing of energy facility
20 development to include the switchyard in Phase 1 rather than Phase 2.

21
22 **4. Page 4, Section C.1.a, Major Structures and Equipment, insert at line 14:**
23 An auxiliary boiler will supply steam for plant start-ups and short duration shut-
24 downs. The auxiliary boiler will be fueled with natural gas. [Amendment No. 3]

25
26 **Discussion.** PGE proposed to revise the description of the energy facility structures and
27 equipment to include an auxiliary boiler as part of the energy facility.

28
29 **5. Page 5, Section C.1.a, Major Structures and Equipment, beginning at Line 4:**

30 The Certificate Holder may develop the whole facility at the same time or it may
31 develop only one of the generating units and the related or supporting facilities
32 ("Phase 1") or the two units of the energy facility in two distinct phases ("Phase 1"
33 and "Phase 2"). As referred to in this Site Certificate, the Certificate Holder would
34 develop Phase 1 first if it develops the energy facility in phases. Phase 1 would
35 consist of the southernmost generating unit ("Unit 1"), including a combustion
36 turbine generator, heat recovery steam generator, steam generator, one step-up
37 transformer bank, auxiliary transformer, and cooling tower. Phase 1 would also
38 include all of the energy facility components common to the two units and the related
39 or supporting facilities, ~~except the switchyard, which the Certificate Holder would~~
40 ~~construct with the northernmost generating unit ("Unit 2") and associated facilities as~~
41 ~~part of Phase 2.~~ [~~Amendment.~~ Amendments No. 1 & 3]

42
43 **Discussion.** PGE proposed to revise the description of the phasing of energy facility
44 development to include the switchyard in Phase 1 rather than Phase 2.

1 **Output.** The energy facility will have a net electric power output of about 560 MW
2 (~~280 MW per generating unit~~) at an average annual site condition of 51 degrees
3 Fahrenheit, 14.691 pounds per square inch barometric pressure, and 78 percent
4 relative humidity. The new and clean heat rate will be about 6,790 Btu (higher
5 heating value). [~~Amendment~~Amendments No. 1 & 3]
6

7 With power augmentation technologies (duct burning), the energy facility will have a
8 net electric power output of about 650 MW (~~325 MW per generating unit~~) and a new
9 and clean heat rate of about 7,100 Btu (higher heating value). The Certificate Holder
10 proposes to operate the energy facility with power augmentation technologies for
11 3,000 hours annually on average. [~~Amendment~~Amendments No. 1 & 3]
12

13 **Fuel Use.** The energy facility will use natural gas as the only fuel to power the
14 turbines and the power augmentation technologies. It will use 4,600 MM Btu per
15 hour (~~2,300 MM BTU per hour per generating unit~~) of natural gas at full load with
16 the duct burners in operation at the average annual site condition.
17 [~~Amendment~~Amendments No. 1 & 3]
18

19 **Discussion.** PGE proposed to revise the descriptions of energy facility output and fuel use
20 to eliminate parenthetical references to the output and fuel use “per generating unit.” PGE
21 anticipated that the generating unit in Phase 1 would be substantially larger than the “per
22 generating unit” average. As PGE stated in conjunction with its Request for Amendment
23 No. One, it understands that it could not construct a second generating unit of the same
24 larger size without obtaining an amendment to the Site Certificate.
25

26 **Water Use.** The energy facility will obtain water to generate steam and to cool the
27 steam process from an existing PGE intake structure on the Bradbury Slough of the
28 Columbia River. The Certificate Holder will use water from PGE’s existing
29 industrial water right, from partial transfer of a water right associated with PGE’s
30 Trojan Nuclear Plant (subject to approval of a transfer by the Oregon Water
31 Resources Department) and, if necessary, will enter into a contract with the Port of
32 St. Helens, which has an existing water permit, to obtain water sufficient for
33 operation of the energy facility. [~~Amendment~~Amendments No. 1 & 3]
34

35 Average water demand at the energy facility will be about 2,800 gallons per minute
36 (“gpm”), or 4.0 million gallons per day (“gpd”). Peak water demand will be about
37 3,700 gpm, 5.4 million gpd, or 8.3 cubic feet per second (“cfs”). ~~These amounts~~
38 ~~would be reduced by one-half for Unit 1 and for Unit 2.~~ [~~Amendment~~Amendments No.
39 1 & 3]
40

41 The energy facility will require no new state-administered water right, water rights
42 transfer, or surface water right permit for water supply. The Port of St. Helens has an
43 existing municipal water use permit for 30 cfs and PGE has an existing industrial
44 water right for 11.3 cfs. [~~Amendment~~PGE expects to apply for a partial transfer of a
45 water right associated with PGE’s Trojan Nuclear Plant, Certificate No. 73396, but an

1 adequate water supply is available for operation of the energy facility without that
2 such a transfer. [Amendments No. 1 & 3]

3 ***

4
5 **Discussion.** PGE proposed to revise the description of water use to include the potential
6 use of water under a water right associated with the Trojan Nuclear Plant (Certificate No.
7 73396) if a partial transfer of that right is approved by the Oregon Water Resources
8 Department. PGE proposed to revise the description of the energy facility water use to
9 eliminate a statement that water consumption figures “would be reduced by one half for
10 Unit 1 and for Unit 2.” PGE anticipates that the generating unit in Phase 1 would require
11 more than one-half of the average of peak water demand for the energy facility as a whole.
12 As PGE stated in conjunction with its Request for Amendment No. One, PGE understands
13 that it could not construct a second generating unit of the same size without obtaining an
14 amendment to the Site Certificate.

- 15
16 6. Page 7, Section C.1.b, Related or Supporting Facilities, insert at line 6:
17 **Chlorination and Electrical Control Buildings.** Two small structures will be
18 constructed on upland south of the intake facility. One structure, with a footprint of
19 about 600 square feet, will be for chlorination. The other structure, with a footprint
20 of about 150 feet, will be for electrical control. Underground lines in a 25-foot wide
21 corridor will connect these structures to the intake structure. [Amendment No. 3]
22

23 **Discussion.** PGE proposed to revise the description of related or supporting facilities to
24 include the chlorination and electrical control buildings that would be located on upland
25 south of the existing PGE water intake facility.

- 26
27 7. Page 7, Section C.1.b, Related or Supporting Facilities, beginning at line 20:
28 The Certificate Holder may also construct a demineralized water pipeline about
29 four~~six~~ inches in diameter from the PGE Beaver Generating Plant to the energy
30 facility. If the Certificate Holder constructs the demineralized water pipeline, it will
31 not construct a water treatment building as part of the energy facility. The Certificate
32 Holder will install a backup 13.8 kV electrical distribution line and a
33 communications line in a conduit from the PGE Beaver Generating Plant to the
34 energy facility. The demineralized water line, communications line, and backup
35 electricity lines will be about 1, 200 feet long, and the portion of the potable water
36 line between the potable water storage tank and the water supply pipeline corridor
37 will be about 1,700 feet long. [AmendmentAmendments No. 1 & 3]
38

39 **Temporary Construction Staging and Laydown Areas.** A temporary construction
40 staging and laydown area of 6.3 acres will be located northwest of the energy facility
41 site. Another laydown area of about 6 acres will be located on upland south of the
42 existing PGE water intake structure. The areas will be used for storing equipment
43 and materials and as staging areas for constructing the power plant. [Amendment
44 No. 3]
45

1 **Spoils Disposal Area.** Excess soils from construction at the energy facility site will
2 be spread across the spoils disposal site of about 11.6 acres, which will be located
3 southeast of the PGE Beaver Generating Plant. [Amendment No. 3].

4
5 **Discussion.** PGE proposed to revise the description of related or supporting facilities to
6 include the temporary construction staging and laydown areas and the spoils disposal area.
7 One construction staging and laydown area of about six acres, south of the existing PGE
8 water intake structure, was included in the ASC, but was not previously described in the
9 Site Certificate.

- 10
11 8. Page 9, Section C.2.b, Related or Supporting Facility Sites, insert at line 9:
12 **Chlorination and Electrical Control Buildings** Two small structures will be
13 constructed on upland south of the existing PGE Beaver Generating Plant water
14 intake structure in Bradbury Slough. The two structures, with a combined footprint
15 of about 750 square feet, will lie within the 852-acre parcel leased to PGE by the Port
16 of St. Helens and situated within Section 15, Township 8 North, Range 4 West,
17 Willamette Meridian. [Amendment No. 3].

18 ***

- 19
20 9. Page 9, Section C.2.b, Related or Supporting Facility Sites, insert at line 24
21 **Temporary Construction Staging and Laydown Areas.** A temporary construction
22 staging and laydown area of 6.3 acres will be located northwest of the energy facility,
23 within the 852-acre parcel leased to PGE by the Port of St. Helens and situated within
24 Sections 15 and 16, Township 8 North, Range 4 West, Willamette Meridian. Another
25 laydown area of about 6 acres will be located on upland south of the existing PGE
26 water intake structure within Section 15, Township 8 North, Range 4 West,
27 Willamette Meridian. The areas will be used for storing equipment and materials and
28 as staging areas for constructing the power plant. [Amendment No. 3]

29
30 **Spoils Disposal Area.** Excess soils from construction at the energy facility site will
31 be spread across the spoils disposal site of about 11.6 acres, which will be located
32 southeast of the PGE Beaver Generating Plant, within the 852-acre parcel leased to
33 PGE by the Port of St. Helens and situated within Sections 15 and 22, Township 8
34 North, Range 4 West, Willamette Meridian.. [Amendment No. 3].

35
36 **Discussion.** PGE proposed to revise the descriptions of the locations of related or
37 supporting facilities to describe the locations of the chlorination and electrical control
38 buildings, both construction staging and laydown areas, and the spoils disposal area.

- 39
40 10. Page 12, Section D.3, Retirement and Financial Assurance (4)
41 Notwithstanding Conditions D.3(1), D.3(2), and D.3(3), if the Certificate Holder
42 begins construction of the Port Westward to BPA Allston Substation Transmission
43 Line before beginning construction of the energy facility and other related or
44 supporting facilities, Conditions D.3(1), D.3(2), and D.3(3) shall apply to that
45 transmission line separately for as long as it is under construction or operation

1 independent of the energy facility; and, a retirement plan that the Certificate Holder
2 submits may provide that the ~~Port Westward to BPA Allston Substation Transmission~~
3 Line remain transmission lines constructed and operated under this Site Certificate
4 remain in operation to serve other energy facilities. [Amendment No. 3]
5

6 **Discussion.** PGE proposed to revise Condition D.3(4) because it anticipates beginning
7 construction on Phase 1 in early 2005 and therefore no longer needs the option of building
8 the Port Westward to BPA Allston Substation Transmission Line before beginning the
9 construction of the energy facility. PGE also proposed to retain the ability to keep any
10 transmission lines it constructs under the Site Certificate in service after retirement of the
11 energy facility.
12

13 **11** Page 12, Section D.3, Retirement and Financial Assurance (5)

14 Before beginning construction of the energy facility, the Certificate Holder shall
15 submit to the State of Oregon, through the Council, a bond or letter of credit in the
16 amount of ~~\$8,640,000~~\$3,449,000 (in ~~2002~~2004 dollars as of the ~~second~~fourth quarter)
17 naming the State of Oregon, acting by and through the Council, as beneficiary or
18 payee. [Amendment No. 3]
19

20 (a) If the Certificate Holder develops the energy facility in phases, then before
21 beginning construction of Phase 1, the Certificate Holder shall submit a bond
22 or letter of credit in the amount of ~~\$4,700,000~~\$2,415,000 (in ~~2002~~2004 dollars
23 as of the ~~second~~fourth quarter). Before beginning construction of Phase 2, the
24 Certificate Holder shall increase the amount of such bond or letter of credit to
25 ~~\$8,640,000~~\$3,449,000 (in ~~2002~~2004 dollars as of the ~~second~~fourth quarter).
26 ~~[Amendment No. 1]~~[Amendments No. 1 & 3]
27

28 ~~(b) In the event the Certificate Holder begins construction of the Port Westward~~
29 ~~to BPA Allston Substation Transmission Line before beginning construction~~
30 ~~of the energy facility, the Certificate Holder shall submit to the State of~~
31 ~~Oregon, through the Council, a bond or letter of credit in the amount of~~
32 ~~\$394,000 (in 2002 dollars as of the second quarter).~~

33 ~~(b) [Deleted]. [Amendment No. 3]~~
34

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

44 ~~(c) [Deleted]. [Amendments No. 1 & 3]~~
45

- 1 (d) The form of the bond or letter of credit and identity of the issuer shall be
2 subject to approval by the Council.
3
- 4 (e) The Certificate Holder shall maintain a bond or letter of credit in effect at all
5 times until the energy facility or the Port Westward to BPA Allston
6 Substation Transmission Line has been retired, as appropriate.
7
- 8 (f) The calculation of ~~2002~~2004 dollars shall be made using the U.S. Gross
9 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the
10 Oregon Department of Administrative Services' "Oregon Economic and
11 Revenue Forecast," or by any successor agency (the "Index"). If at any time
12 the Index is no longer published, the Council shall select a comparable
13 calculation of ~~2002~~2004 dollars. [Amendment No. 3]
14
- 15 (g) The amount of the bond or letter of credit account shall increase annually by
16 the percentage increase in the Index.
17
- 18 (h) The Certificate Holder shall not revoke or reduce the bond or letter of credit
19 before retirement of the facility without approval by the Council.
20

21 **Discussion.** PGE proposed to revise Condition D.3(5) to eliminate D.3(5)(b) and
22 D.3(5)(c), because it no longer needs the option of building the Port Westward to BPA
23 Allston Substation Transmission Line before beginning the construction of the energy
24 facility. In addition, PGE revised its retirement cost estimates for the reasons described
25 below in the Section V.C discussion of compliance with OAR 345-022-0050, Retirement
26 and Financial Assurance.
27

28 **12** Page 21, Section D.8, Fish and Wildlife Habitat (7):

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

32 Should operation of the energy facility diminish the quality of nesting habitat for bald
33 eagles on Crims Island, the Certificate Holder shall mitigate that impact in order to
34 provide no net loss of habitat, plus a net benefit of habitat quality.
35

36 (a) The Certificate Holder shall mitigate to compensate for any loss in habitat
37 quality if, within three complete bald eagle breeding seasons after beginning
38 commercial operation of the energy facility, studies indicate that there has
39 been a negative impact to habitat quality at the bald eagle nest site.
40

41 (b) The Certificate Holder shall collect and provide accurate and timely
42 information to the Department and ODFW on the status (e.g., active or
43 inactive; successful or unsuccessful) of the bald eagle nest site throughout
44 three complete bald eagle breeding seasons after beginning commercial
45 operation of the energy facility.

- 1
2 (c) The Certificate Holder shall consult with the Department and ODFW to
3 develop a standardized set of procedures for 1) monitoring the nest site, 2)
4 ensuring that the data collected are sufficient for assessing any impact to
5 habitat quality, and 3) ensuring that the data are reported in a timely manner.
6
7 (d) The Certificate Holder, in consultation with the Department and ODFW, shall
8 use the monitoring data to assess whether an impact to habitat quality has
9 occurred.
10
11 (e) If the Department, in consultation with ODFW, determines that a negative
12 impact to habitat quality has occurred as a result of operating the energy
13 facility during the monitoring period, the Certificate Holder shall consult with
14 the Department and ODFW to develop an appropriate mitigation strategy to
15 meet the mitigation goal for Habitat Category 2.
16
17 (f) The Certificate Holder shall fund and implement the mitigation strategy
18 within two years of the Department's determination that a negative impact to
19 the habitat quality for the nesting bald eagles has occurred from operation of
20 the energy facility. [Amendments No. 1 & 3]
21

22 **Discussion.** PGE proposed to delete the original Condition D.8(7), which required the
23 Certificate Holder to relocate an existing osprey nest, because the ospreys have already
24 developed a new nest site. ODFW concurred.
25

26 Based on ODFW's recommendation regarding the bald eagles' nest, PGE amended its
27 request to incorporate a new Condition (7) that is unrelated to the original condition. This
28 new condition complements new Condition D.9(9), which relates to the impact of
29 construction and operation of the energy facility on a threatened or endangered species.
30 The condition would provide for monitoring and potential mitigation if operation of the
31 energy facility disturbs the Habitat Category 2 for the new bald eagle nest about one-half
32 mile from the energy facility. A detailed explanation of the condition is in Section V.H,
33 below.
34

35 **13** Page 21, Section D.8, Fish and Wildlife Habitat (8):

36 Before beginning construction of the facility, the Certificate Holder shall conduct pre-
37 construction surveys within the analysis area and establish construction buffers
38 around raptor nests during the nesting season, as approved by ODFW. If it is not
39 practical for the Certificate Holder to avoid the nests of non-listed, threatened or
40 endangered raptor species, the Certificate Holder shall implement in a timely manner
41 a mitigation project approved by ODFW that meets the requirements of the Habitat
42 Mitigation policy for "no net loss" appropriate to the Habitat Category. An exception
43 to this is the artificial nesting platform located adjacent to the energy facility site that
44 was installed by Clatskanie PUD to deter ospreys from nesting on a nearby PUD

1 power pole. Protection buffers or other restrictions and mitigation do not apply to
2 this artificial nesting site and are not required by ODFW. [Amendment No. 3]
3

4 **Discussion.** PGE proposed to revise Condition D.8(8) to clarify that protection buffers or
5 other restrictions and mitigation for impacts to raptor nests would not apply to an artificial
6 nesting platform installed by Clatskanie PUD on a PUD power pole.
7

8 **14** Page 22, Section D.8, Fish and Wildlife Habitat (20):

9 The Certificate Holder shall monitor and control nuisance and invasive plant species
10 annually for a period of five years in areas where vegetation removal and/or
11 revegetation has occurred in (1) riparian areas and wetlands along the transmission
12 line rights-of-way, and (2) in areas temporarily disturbed by construction of the raw
13 water, gas, and process water discharge lines, in the temporary construction staging
14 and laydown area northwest of the energy facility site, and in the spoils disposal site.
15 [Amendment No. 3]
16

17 **Discussion.** PGE proposed to modify Condition D.8(20), which requires monitoring and
18 control of nuisance and invasive species, to include the spoils disposal area and the
19 construction staging and laydown area northwest of the energy facility site.
20

21 **15** Page 23, Section D.9, Threatened and Endangered Species (6):

22 ~~The Certificate Holder shall not construct at the transmission line terminus at the~~
23 ~~Trojan Nuclear Plant during the critical peregrine falcon nesting period from January~~
24 ~~1 to June 30.~~

25 The Certificate Holder shall not conduct construction activities at the transmission
26 line terminus at the Trojan Nuclear Plant that generate extreme noise or high levels of
27 visual disturbance during the peregrine falcon critical nesting period from January 1
28 to June 30. Such activities include pile driving, excavation, and grading for ground
29 stabilization purposes and site preparation. Construction activities involving lower
30 levels of visible activity and less noise are allowed throughout the year. These
31 include such activities as excavating and setting forms, pouring footings, erecting
32 power line towers and bus duct, hanging conductor wires, installing control wires,
33 and testing. Prior to beginning construction at the terminus site, PGE shall provide
34 the Department and ODFW with a final construction schedule that lists various
35 construction activities and time periods when specific work will be conducted. The
36 schedule shall include information on the types of heavy construction equipment that
37 will be used and the approximate number of workers and shall demonstrate that the
38 construction activities are consistent with the limitations of this condition. PGE shall
39 provide scheduling updates as necessary to alert the Department and ODFW ahead of
40 time of any proposed changes in the work schedule should the changes occur during
41 the critical nesting period. PGE shall not proceed with construction activity at the
42 transmission line terminus at the Trojan Nuclear Plant during the peregrine falcon
43 critical nesting period from January 1 to June 30 to the extent that ODFW or the
44 Department determines that the activity is not consistent with the limitations of this
45 condition. PGE staff will monitor peregrine falcon activity at the transmission line

1 terminus at the Trojan Nuclear Plant between January 1 to June 30 of construction
2 years. Prior to initiation of construction at the transmission line terminus at the
3 Trojan Nuclear Plant, PGE will coordinate with ODFW and will consequently
4 prepare a peregrine falcon contingency plan. This contingency plan would address
5 actions to be undertaken in the event that monitoring shows the peregrine falcon
6 pair's nesting activities to be negatively affected by the transmission line construction
7 activities. [Amendment No. 3]

8
9 **Discussion.** PGE proposed to modify Condition D.9(6) to allow construction activities
10 during the peregrine falcon critical nesting period from January 1 to June 30, if those
11 activities involve lower levels of visible activity and less noise. PGE revised its proposed
12 condition based on comments by ODFW in its letter of December 9, 2004.

13
14 PGE, ODFW and the Department concur on the need to monitor peregrine falcon activity
15 at the terminus during construction and the need for having a contingency plan if the
16 construction activities disturb the peregrine falcon pair's nesting activities. This condition
17 is conditional on whether the peregrine falcons are still on the site during construction.
18 Other work that PGE has planned at the Trojan Nuclear Plant site that is unrelated to
19 building the terminus of the Port Westward transmission line may affect whether the
20 peregrine falcons are still nesting near the terminus when the transmission line construction
21 occurs.

22
23 **16** Page 23, Section D.9, Threatened and Endangered Species, insert new (9):
24 In order to address potential impacts to the bald eagle nest site on the northwest tip
25 (downstream end) of Crims Island, the Certificate Holder shall construct and operate
26 the energy facility consistent with the final Biological Opinion and Incidental Take
27 Statement issued by the U.S. Fish and Wildlife Service. If the requirements of the
28 Biological Opinion and Incidental Take Statement conflict with any conditions
29 imposed in this Site Certificate, the Certificate Holder shall consult with the
30 Department and ODFW to resolve the conflicts prior to taking any action in reliance
31 on the Biological Opinion and Incidental Take Statement. [Amendment No. 3]

32
33 **Discussion.** PGE proposed to add Condition D.9(9) to require that the Certificate Holder
34 protect a new bald eagle nest at the northwest tip (downstream end) of Crims Island by
35 constructing and operating the energy facility consistent with the final Biological Opinion
36 and Incidental Take Statement that will be issued by the U.S. Fish and Wildlife Service.

37
38 **17** Page 34, Section E.1.b, Wetlands and Removal/Fill Permit, insert new (3)
39 The Certificate Holder shall clearly stake the wetland boundary adjacent to the spoils
40 disposal area prior to any ground disturbing activity in the spoils disposal area, and
41 shall maintain the staking until all ground-disturbing activities in the spoils disposal
42 area have been completed. All contractors disposing of soil in the spoils disposal
43 area shall be instructed as to the purpose of the staking and to avoid any impact to the
44 wetlands. Amendment No. 3]

1 **Discussion.** PGE proposed to add Condition E.1.b(3) to require that the Certificate Holder
2 clearly stake the wetland boundary adjacent to the spoils disposal area prior to any
3 disturbance, including disposal of soil, in the spoils disposal area and that the Certificate
4 Holder leave the staking in place until it has completed all soil disturbing activity.

5
6 **B. Department of Energy's Proposed Changes**

7 The Department recommended that the Council adopt the amendments that PGE requested
8 along with making certain changes to the proposed conditions to clarify or expand the
9 intent of conditions. The changes the Department proposed are highlighted.

10
11 1. Page 12, Section D.3, Retirement and Financial Assurance (5)

12 Before beginning construction of the energy facility, the Certificate Holder shall
13 submit to the State of Oregon, through the Council, a bond or letter of credit in the
14 amount of \$8,640,000~~3,449,000~~ \$4,938,800 (in ~~2002~~2004 dollars as of the
15 ~~second~~fourth quarter) naming the State of Oregon, acting by and through the Council,
16 as beneficiary or payee. [Amendment No. 3]

17
18 (a) If the Certificate Holder develops the energy facility in phases, then before
19 beginning construction of Phase 1, the Certificate Holder shall submit a bond
20 or letter of credit in the amount of \$4,700,000~~2,415,000~~ \$3,698,000 (in
21 ~~2002~~2004 dollars as of the ~~second~~fourth quarter). Before beginning
22 construction of Phase 2, the Certificate Holder shall increase the amount of
23 such bond or letter of credit to \$8,640,000~~3,449,000~~ \$4,938,800 (in ~~2002~~2004
24 dollars as of the ~~second~~fourth quarter). ~~[Amendment No. 1]~~[Amendments No. 1
25 & 3]

26
27 (b) ~~In the event the Certificate Holder begins construction of the Port Westward~~
28 ~~to BPA Allston Substation Transmission Line before beginning construction~~
29 ~~of the energy facility, the Certificate Holder shall submit to the State of~~
30 ~~Oregon, through the Council, a bond or letter of credit in the amount of~~
31 ~~\$394,000 (in 2002 dollars as of the second quarter).~~

32 (b) ~~[Deleted]. [Amendment No. 3]~~

33
34 (c) ~~If the Certificate Holder has previously begun construction of the Port~~
35 ~~Westward to BPA Allston Substation Transmission Line, the Certificate~~
36 ~~Holder shall increase the amount of such bond or letter of credit to \$8,640,000~~
37 ~~(in 2002 dollars as of the second quarter) before beginning construction of the~~
38 ~~energy facility. If the Certificate Holder develops the energy facility in~~
39 ~~phases, the Certificate Holder shall increase the amount of such bond or letter~~
40 ~~of credit to \$4,700,000 (in 2002 dollars as of the second quarter) before~~
41 ~~beginning construction of Phase 1 and to \$8,640,000 (in 2002 dollars as of the~~
42 ~~second quarter) before beginning construction of Phase 2. [Amendment No. 1]~~

43 (c) ~~[Deleted]. [Amendments No. 1 & 3]~~

- 1 (d) The form of the bond or letter of credit and identity of the issuer shall be
2 subject to approval by the Council.
3
- 4 (e) The Certificate Holder shall maintain a bond or letter of credit in effect at all
5 times until the energy facility or the Port Westward to BPA Allston
6 Substation Transmission Line has been retired, as appropriate.
7
- 8 (f) The calculation of ~~2002~~2004 dollars shall be made using the U.S. Gross
9 Domestic Product Implicit Price Deflator, Chain-Weight, as published in the
10 Oregon Department of Administrative Services' "Oregon Economic and
11 Revenue Forecast," or by any successor agency (the "Index"). If at any time
12 the Index is no longer published, the Council shall select a comparable
13 calculation of ~~2002~~2004 dollars. [Amendment No. 3]
14
- 15 (g) The amount of the bond or letter of credit account shall increase annually by
16 the percentage increase in the Index.
17
- 18 (h) The Certificate Holder shall not revoke or reduce the bond or letter of credit
19 before retirement of the facility without approval by the Council.
20

21 **Discussion.** The increased amounts of the retirement fund reflect additions of a 20 percent
22 contingency, \$300,000 for administrative costs for the State of Oregon, and a \$500,000
23 contingency for hazardous materials management. These calculations are discussed in
24 Section V.C, below.
25

26 2. Page 23, Section D.9, Threatened and Endangered Species (6):

27 ~~The Certificate Holder shall not construct at the transmission line terminus at the~~
28 ~~Trojan Nuclear Plant during the critical peregrine falcon nesting period from January~~
29 ~~1 to June 30.~~

30 The Certificate Holder shall not conduct construction activities at the transmission
31 line terminus at the Trojan Nuclear Plant that generate extreme noise or high levels of
32 visual disturbance during the peregrine falcon critical nesting period from January 1
33 to June 30. Such activities include pile driving, excavation, and grading for ground
34 stabilization purposes and site preparation. Construction activities involving lower
35 levels of visible activity and less noise are allowed throughout the year. These
36 include such activities as excavating and setting forms, pouring footings, erecting
37 power line towers and bus duct, hanging conductor wires, installing control wires,
38 and testing.
39

- 40 (a) Prior to beginning construction at the terminus site, the Certificate Holder
41 PGE shall provide the Department and ODFW with a final construction
42 schedule that lists various construction activities, and time periods when
43 specific work will be conducted. The schedule shall include information on
44 the types of heavy construction equipment that will be used and the
45 approximate number of workers and shall demonstrate that the construction

1 activities are consistent with the limitations of this condition. The Certificate
2 Holder PGE shall provide scheduling updates as necessary to alert the
3 Department and ODFW ahead of time of any proposed changes in the work
4 schedule should the changes occur during the critical nesting period.

5
6 (b) The Certificate Holder shall PGE staff will monitor peregrine falcon activity at
7 the transmission line terminus at the Trojan Nuclear Plant between January 1
8 to June 30 of construction years. Before beginning Prior to initiation of
9 construction at the transmission line terminus at the Trojan Nuclear Plant, the
10 Certificate Holder shall PGE will coordinate with ODFW and the Department
11 and shall will consequently prepare a peregrine falcon contingency plan. This
12 contingency plan shall would address actions that the Certificate Holder
13 would undertake to be undertaken in the event that the Department and
14 ODFW determine that monitoring shows the peregrine falcon pair's nesting
15 activities are to be negatively affected by the transmission line construction
16 activities.

17
18 (c) The Certificate Holder PGE shall not proceed with construction activity at the
19 transmission line terminus at the Trojan Nuclear Plant during the peregrine
20 falcon critical nesting period from January 1 to June 30 to the extent that
21 ODFW or the Department determines that the activity is not consistent with
22 the limitations of this condition. [Amendment No. 3]

23
24 **Discussion.** The Department recommended that the Council clarify the roles and
25 responsibilities in the condition and that it reformat the condition for clarity.

26
27 3. Page 23, Section D.9, Threatened and Endangered Species, insert new (9):
28 The Certificate Holder shall not undertake construction at the energy facility site
29 during the bald eagle nesting season unless it obtains a final Biological Opinion and
30 Incidental Take Statement issued by the U.S. Fish and Wildlife Service that addresses
31 In order to address potential impacts to the bald eagle nest site on the northwest tip
32 (downstream end) of Crims Island. the

33
34 (a) The Certificate Holder shall construct and operate the energy facility consistent
35 with the final Biological Opinion and Incidental Take Statement issued by the
36 U.S. Fish and Wildlife Service.

37
38 (b) If the requirements of the Biological Opinion and Incidental Take Statement
39 conflict with any conditions imposed in this Site Certificate, the Certificate
40 Holder shall consult with the Department and ODFW to resolve the conflicts
41 prior to taking any action in reliance on the Biological Opinion and Incidental
42 Take Statement. [Amendment No. 3]

43
44 **Discussion.** In order to comply with the Threatened and Endangered Species Standard, the
45 Certificate Holder must have the federal Biological Opinion and Incidental Take Statement

1 before beginning construction because the Council is relying on the federal action to find
2 that PGE meets the Council standard.

- 3
4 4. Page 24, Section D. 11, Historic, Cultural and Archeological Resources, (2) and (3):
5 This section has two conditions that are labeled number (2) and no condition labeled
6 number (3).

7
8 **Discussion.** The Department recommended that the Council correct the sequence
9 numbering.

- 10
11 5. Page 34, Section E.1.b, Wetlands and Removal/Fill Permit, insert new (3)
12 The Certificate Holder shall clearly stake the wetland boundary adjacent to the spoils
13 disposal area and the wetland number 4 boundary adjacent to the construction
14 laydown/staging areas in the vicinity of the energy facility prior to any ground
15 disturbing activity in the spoils disposal area or in the construction laydown/staging
16 areas in the vicinity of the energy facility, and shall maintain the staking until all
17 ground-disturbing activities in the spoils disposal area and in the construction
18 laydown/staging areas in the vicinity of the energy facility have been completed. The
19 Certificate Holder shall instruct all ~~All~~ contractors disposing of soil in the spoils
20 disposal area and using the construction laydown/staging areas in the vicinity of the
21 energy facility about ~~shall be instructed as to the purpose of the staking and shall~~
22 require them to avoid any impact to the wetlands. Amendment No. 3]

23
24 **Discussion.** In response to Department inquiries, PGE representatives stated on December
25 9, 2004, that PGE would stake the boundaries of the construction laydown/staging areas in
26 the vicinity of the energy facility to prevent any impacts to wetland number 4. The
27 Department recommended that the Council incorporate that commitment into the
28 condition.

29
30 **Conclusion.** The Council adopts the amendments to Site Certificate descriptions and
31 conditions discussed in Section IV(A) as modified in Section IV(B), pursuant to the
32 findings in Section V.

33
34 **V. Compliance with Siting Standards**

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

38
39 **A. Updated List of Property Owners**

40 OAR 345-027-0060(1)(g) requires “for an amendment to change the site boundary or to
41 extend the deadlines for beginning or completing construction of the facility, an updated
42 list of the owners of property located within or adjacent to the site of the facility, as
43 described in OAR 345-021-0010(1)(f).” Because the changes to the location of related or
44 supporting facilities change the site boundary, PGE provided an updated list as part of its
45 amendment request.

1
2 **B. Organizational Expertise Standard, OAR 345-022-0010**

3 This standard has four paragraphs. The first two paragraphs, -0010(1) and -0010(2), relate
4 to application qualifications and capability and the final two paragraphs, -0010(3) and
5 -0010(4), relate to third-party permits.
6

7 **1. Applicant Qualification and Capability, OAR 345-022-0010(1)**

8 To issue a site certificate, the Council must find that the applicant has the
9 organizational expertise to construct, operate and retire the proposed facility
10 in compliance with Council standards and conditions of the site certificate.
11 To conclude that the applicant has this expertise, the Council must find that
12 the applicant has demonstrated the ability to design, construct and operate
13 the proposed facility in compliance with site certificate conditions and in a
14 manner that protects public health and safety and has demonstrated the
15 ability to restore the site to a useful, non-hazardous condition. The Council
16 may consider the applicant's experience, the applicant's access to technical
17 expertise and the applicant's past performance in constructing, operating and
18 retiring other facilities, including, but not limited to, the number and severity
19 of regulatory citations issued to the applicant.
20

21 **Discussion.** The proposed changes to the facility are within the scope of PGE's overall
22 responsibilities to construct, operate, and retire the facility. The findings in the Final
23 Orders apply. The Council finds that this amendment will not impact PGE's qualifications
24 as the Certificate Holder.
25

26 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of
27 OAR 345-022-0010(1).
28

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

30 The Council may base its findings under section (1) on a rebuttable
31 presumption that an applicant has organizational, managerial and technical
32 expertise, if the applicant has an ISO 9000 or ISO 14000 certified program
33 and proposes to design, construct and operate the facility according to that
34 program.
35

36 **Discussion.** OAR 345-022-0010(2) is not addressed herein because the Certificate Holder
37 does not have an ISO 9000 or 14000 certified program.
38

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

40 If the applicant does not itself obtain a state or local government permit or
41 approval for which the Council would ordinarily determine compliance but
42 instead relies on a permit or approval issued to a third party, the Council, to
43 issue a site certificate, must find that the third party has, or has a reasonable
44 likelihood of obtaining, the necessary permit or approval, and that the
45 applicant has, or has a reasonable likelihood of entering into, a contractual

1 or other arrangement with the third party for access to the resource or
2 service secured by that permit or approval.

3
4 **Discussion.** The Council finds that the proposed amendment will not change the findings
5 of the Final Orders regarding third party permits.

6
7 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of
8 OAR 345-022-0010(3).

9
10 **4. Third-Party Services and Permits, OAR 345-022-0010(4)**

11 If the applicant relies on a permit or approval issued to a third party and
12 the third party does not have the necessary permit or approval at the time
13 the Council issues the site certificate, the Council may issue the site
14 certificate subject to the condition that the certificate holder shall not
15 commence construction or operation as appropriate until the third party
16 has obtained the necessary permit or approval and the applicant has a
17 contract or other arrangement for access to the resource or service secured
18 by that permit or approval.

19
20 **Discussion.** The modifications to the facility proposed in PGE's request do not require any
21 additional third party permits and do not require modification to any Site Certificate
22 conditions concerning third party permits. PGE requested that the Council amend the Site
23 Certificate to allow the Certificate Holder to use water under the Trojan water right,
24 Certificate 73396, if the Oregon Water Resources Department approves transfer of that
25 water right.

26 In Section D.2.c of the Final Order of November 8, 2002, the Council determined that the
27 Port of St. Helens has a municipal water use permit and, pursuant to OAR 345-022-
28 0010(4), conditioned the Site Certificate upon execution of a contract for access to the
29 required water before beginning construction of the energy facility (Section D.2,
30 Condition 7). In the Final Order of December 5, 2003, the Council changed the Site
31 Certificate to require a contract with the Port of St. Helens for "up to" 8.3 cfs. PGE
32 indicated that it still anticipates entering into an agreement with the Port of St. Helens for
33 water supply as required by Condition D.2(7) of the Site Certificate.

34
35 Modifying the Site Certificate to authorize PGE to use water under the Trojan water right,
36 if a transfer is approved by the Water Resources Department, does not alter the likelihood
37 that PGE will be able to enter into the required contact with the Port of St. Helens.
38 Furthermore, the use of the Trojan water right is not necessary for the siting or functioning
39 of the energy facility. Therefore, the Council finds that the transfer of the Trojan water
40 right is not a required permit for which the Council must find compliance pursuant to OAR
41 345-022-0000(1)(b).

42
43 The Council also finds that the request will not affect the findings in the Final Orders or
44 conditions in the Site Certificate relating to acquiring third party permits or contracts.

1
2 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of
3 OAR 345-022-0010(4).
4

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

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

- 7 (1) The site, taking into account mitigation, can be restored adequately
8 to a useful, non-hazardous condition following permanent cessation
9 of construction or operation of the facility.
10 (2) The applicant has a reasonable likelihood of obtaining a bond or
11 letter of credit in a form and amount satisfactory to the Council to
12 restore the site to a useful, non-hazardous condition.
13

14 **Discussion.** In Section D.3 of the Final Order of November 8, 2002, the Council found
15 that, with the imposition of the conditions in Section D.3 of the Site Certificate, the
16 applicant demonstrated that it could adequately restore the site to a useful, non-hazardous
17 condition following facility retirement. The Site Certificate requires that the Certificate
18 Holder submit a bond or letter of credit in the amount of \$8,640,000 (in 2002 dollars as of
19 the second quarter) to the State of Oregon prior to beginning construction of the facility. In
20 the Final Order of December 5, 2003, the Council modified the conditions to provide that,
21 if the Certificate Holder develops the energy facility in phases, the Certificate Holder shall
22 provide a bond or letter of credit in the amount of \$4,700,000 (in 2002 dollars as of the
23 second quarter) prior to the beginning of construction of Phase 1, and to increase the bond
24 to \$8,640,000 (in 2002 dollars as of the second quarter) prior to the beginning of
25 construction of Phase 2.
26

27 PGE requested amendments to the Site Certificate to decrease the amount of the bond or
28 letter of credit. PGE provided a spreadsheet that it prepared in consultation with Pacific
29 Energy Systems that uses a refined methodology for determining retirement costs. The
30 Council has previously approved retirement cost estimates based on the use of this
31 spreadsheet methodology. The new retirement cost estimate is based on estimates of work
32 necessary for facility retirement, rather than being calculated simply as a percentage of the
33 cost of constructing the facility, which was the basis for the original finding.
34

35 The new approach also accounts for the likelihood that PGE, as the holder of a long-term
36 ground lease for the energy facility site, would not choose to incur the expense of removing
37 the foundation of the energy facility. The energy facility site is zoned for industrial use,
38 and the site would be reused for a compatible purpose that could take advantage of the
39 foundation. In addition, PGE reported that it expects that the transmission lines
40 constructed under the Site Certificate would continue to be used. Due to existing and
41 anticipated congestion on transmission facilities in the area and the difficulty of siting new
42 transmission facilities, the Council finds that the transmission lines likely would be used by
43 area utilities to bring electricity to the area from the BPA system.
44

1 PGE estimated that the direct cost for retirement of the energy facility would be
2 \$3,449,000 (2004 dollars as of the fourth quarter). PGE estimated that the cost of retiring
3 one unit would be about 70 percent of the cost for both units. Therefore, PGE proposed
4 that a retirement bond or letter of credit for Phase 1 be \$2,415,000 (2004 dollars as of the
5 fourth quarter), increasing with construction of Phase 2 to \$3,449,000 (2004 dollars as of
6 the fourth quarter). The Department reviewed these calculations. The Council adopts
7 these calculations as the direct costs for retiring the facility. However, these calculations of
8 direct costs do not reflect the full amount of the security required for the retirement fund.

9
10 In addition to the direct costs for retirement, the Council has traditionally included a
11 20 percent contingency, \$300,000 for State of Oregon administrative costs, and a
12 \$500,000 contingency for hazardous materials management in the requirement for security
13 for the retirement fund. Applying these additional elements raises the required security for
14 the retirement fund for Phase 1 to \$3,698,000 (in 2004 dollars as of the fourth quarter).
15 With construction of Phase 2, the total increases to \$4,938,800 (in 2004 dollars as of the
16 fourth quarter).

17
18 The Council finds that amount of the retirement fund applicable to Phase 1 is \$3,698,000
19 (in 2004 dollars as of the fourth quarter) and that the amount applicable to both Phase 1
20 and Phase 2 is \$4,938,800 (in 2004 dollars as of the fourth quarter). The Council also finds
21 that the findings in the Final Orders regarding PGE's ability to obtain a bond or letter of
22 credit for retiring the energy facility apply to this request.

23
24 **Conclusion.** The Council finds that the Certificate Holder meets the requirements of
25 OAR 345-022-0050.

26
27 **D. Structural Standard, OAR 345-022-0020**

- 28 (1) Except for facilities described in sections (2) and (3), to issue a site
29 certificate, the Council must find that:
- 30 (a) The applicant, through appropriate site-specific study, has adequately
31 characterized the site as to seismic zone and expected ground
32 motion and ground failure, taking into account amplification, during
33 the maximum credible and maximum probable seismic events; and
 - 34 (b) The applicant can design, engineer, and construct the facility to
35 avoid dangers to human safety presented by seismic hazards
36 affecting the site that are expected to result from all maximum
37 probable seismic events. As used in this rule "seismic hazard"
38 includes ground shaking, landslide, liquefaction, lateral spreading,
39 tsunami inundation, fault displacement, and subsidence;
 - 40 (c) The applicant, through appropriate site-specific study, has
41 adequately characterized the potential geological and soils hazards
42 of the site and its vicinity that could, in the absence of a seismic
43 event, adversely affect, or be aggravated by, the construction and
44 operation of the proposed facility; and

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

5 **Discussion.** Exhibit H (Geology) and Exhibit I (Soil Conditions) of the ASC provide
6 information relating to seismic, geologic, and soils hazards. The new utilities and above-
7 ground facilities proposed in this amendment request will be located within the same
8 Seismic Zones analyzed therein.
9

10 In the Final Order approving the Site Certificate, Section D.5, the Council found that the
11 applicant met the structural standard, with the eight conditions set forth in Section D.5 of
12 the Site Certificate. The conditions require more detailed seismic hazard evaluations and
13 geotechnical investigations prior to beginning construction of the facility. The Site
14 Certificate conditions requiring additional investigations and reports prior to construction
15 will apply equally to the new facilities proposed in the amendment request. Therefore, no
16 revisions to the conditions are necessary to maintain compliance with the Structural
17 Standard. The Council finds that the findings in the Final Orders regarding the Structural
18 Standard apply to this request.
19

20 **Conclusion.** The Council finds that the proposed changes to the facility meet the
21 requirements of OAR 345-022-0020.
22

23 **E. Soil Protection Standard, OAR 345-022-0022**

24 To issue a site certificate, the Council must find that the design,
25 construction, operation and retirement of the facility, taking into account
26 mitigation, are not likely to result in a significant adverse impact to soils
27 including, but not limited to, erosion and chemical factors such as salt
28 deposition from cooling towers, land application of liquid effluent, and
29 chemical spills.
30

31 **Discussion.** Because the structures proposed in this amendment request are located either
32 within or in the near vicinity of the original facility site depicted in the ASC, and therefore
33 on the same types of soils, the Council's findings extend equally to these new structures.
34

35 The ten conditions in Section D.6 of the Site Certificate require the Certificate Holder to
36 employ soil erosion and sediment runoff control measures during any soil disturbing
37 activities; use native seed mixes to restore vegetation to the extent practicable and
38 landscape disturbed portions of the site upon completion of soil disturbing activities;
39 protect soil from chemical spills on site; and minimize drift from cooling towers. These
40 conditions will regulate construction of the new facilities proposed in this amendment
41 request and the use and restoration of the additional laydown area and spoils disposal area.
42 The Council finds that the findings in the Final Orders regarding the Soil Protection
43 Standard apply to this request.
44

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

3
4 **F. Land Use Standard, OAR 345-022-0030**

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

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

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

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

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

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

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

35
36 **Discussion.** PGE submitted a "Land Use Standard Analysis" as Attachment 3 to its
37 request. All of the new or modified elements of the proposed facility would be located
38 entirely within Columbia County's planning jurisdiction. As a result, these facilities would
39 be subject to the provisions of the Columbia County Zoning Ordinance ("CCZO"). The
40 proposed alterations to the facility are limited to three zones: the Resource Industrial
41 Planned Development ("RIPD") zone, the Forest Agriculture FA-19 zone, and the Primary
42 Forest PF-76 zone. Attachment 3 of the amendment request provided a land use analysis
43 for the facility changes that PGE proposed.
44

1 The following new or modified elements of the proposed facility that are addressed in this
2 land use analysis are located on the 852-acre tract leased to PGE and known as the Port
3 Westward Industrial Park, which is zoned by Columbia County as RIPD: spoils disposal
4 area; temporary construction staging and laydown area; and two small buildings near
5 PGE's water intake structure. As indicated in the original Final Order, none of these areas
6 or buildings is within a Columbia County Flood Hazard Overlay Zone.

7
8 PGE proposed the following transmission alignments changes in its amendment request:

9
10 (1) Adjacent to Allston Substation: The transmission alternative described in the ASC as
11 Alternative 4 would be moved to the east in the vicinity of the Allston Substation.
12 PGE requested authorization for two possible corridor options: one alignment would
13 be immediately west of Heath Road, while the other alignment would have three
14 transmission towers located on the east side of Heath Road. Both new alignment
15 options would be the same width as the approved corridor—125 feet—and located on
16 land zoned by Columbia County as Forest Agriculture-19 (FA-19), which is the same
17 zoning as the approved alignment. A portion of each corridor would be within the
18 road right-of-way of Heath Road. PGE would not acquire that portion of the corridor.

19
20 (2) South of Allston Substation: One transmission tower would be located slightly
21 farther north in Alternative 4 in order to avoid wetlands. This would result in a
22 small triangular area of new transmission corridor, about 0.77 acres, that was not
23 included in the ASC. The overall width of the transmission corridor would not
24 change and an area of approved corridor would no longer be needed. The new
25 alignment would be located on land zoned by Columbia County as Primary Forest-
26 76 (PF-76), which is the same zoning as the approved alignment.

27
28 (3) Trojan Heights: PGE would place one transmission tower in a slightly different
29 location in the area known as Trojan Heights to avoid a steep, unstable slope. The
30 proposed realignment would also provide improved access to the new transmission
31 towers using existing access roads. The change is shown on Figure C-7 and revised
32 Figure J-1.11. The relocated transmission line corridor would be located on land
33 zoned by Columbia County as Resource Industrial Planned Development ("RIPD")
34 and as Primary Forest-76 (PF-76). The approved corridor would be located in the
35 same zones. The RIPD zone is coterminous with the Trojan Exception Statement
36 in the Comprehensive Plan.

37
38 The Council finds that the proposed changes are consistent with the findings in the Final
39 Orders. The Council finds that the conclusions in the Final Orders apply equally to the
40 new or modified facilities in the amendment request.

41
42 PGE identified the following new provision not addressed in the previous Final Orders.
43

1 **CCZO §1563 Standards for Approval:**
2

- 3 D. Historic and Cultural sites and structures. All historic and culturally
4 significant sites and structures identified in the Comprehensive Plan, or
5 identified for inclusion in the County periodic Review, shall be protected
6 if they still exist.
7

8 In Ordinance No. 2003-6, Columbia County adopted a new inventory of significant
9 historical sites as part of Article XI of the County's Comprehensive Plan. In addition, the
10 Ordinance includes the results of the "Columbia County Intensive-Level Historic Survey,"
11 which includes the inventoried sites as well as others determined not to be significant. The
12 Council finds that the modifications proposed in this amendment request, including the
13 minor alterations in transmission alignments, would not affect any historic resources
14 identified in Article XI or in the broader survey and that the facility complies with
15 CCZO §1563 D.
16

17 **Conclusion.** The Council finds that the proposed changes to the facility meet the
18 requirements of OAR 345-022-0030.
19

20 **G. Protected Area Standard, OAR 345-022-0040**

- 21 (1) Except as provided in sections (2) and (3), the Council shall not issue
22 a site certificate for a proposed facility located in the areas listed
23 below. To issue a site certificate for a proposed facility located
24 outside the areas listed below, the Council must find that, taking into
25 account mitigation, the design, construction and operation of the
26 facility are not likely to result in significant adverse impact to the
27 areas listed below. Cross-references in this rule to federal or state
28 statutes or regulations are to the version of the statutes or regulations
29 in effect as of August 28, 2003:***
30

31 **Discussion.** Amendments to OAR 345-022-0040 changed the list of protected areas to
32 include those areas designated as of August 28, 2003 (the list previously referenced those
33 areas designated as of March 29, 2002). There are no newly-designated protected areas
34 within the vicinity of the facility and the analysis area has not changed. Because the new
35 above-ground structures proposed by PGE would be minor structural additions or
36 modifications within the energy facility site or would be small structures adjacent to the
37 existing PGE intake structure, the findings in the Final Orders apply to the proposed
38 changes. In addition, these minor amendments do not necessitate the addition of any
39 conditions of approval to maintain compliance with the Protected Areas standard. The
40 Council finds that the findings in the Final Orders are sufficient to demonstrate compliance
41 with the Protected Areas Standard.
42

43 **Conclusion.** The Council finds that the proposed changes to the facility meet the
44 requirements of OAR 345-022-0040.
45

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

2 To issue a site certificate, the Council must find that the design,
3 construction, operation and retirement of the facility, taking into account
4 mitigation, are consistent with the fish and wildlife habitat mitigation goals
5 and standards of OAR 635-415-0025 in effect as of September 1, 2000.
6

7 **Discussion.** There are multiple issues related to the Fish and Wildlife Habitat Standard in
8 this request for amendment. Several elements of this amendment request would involve
9 disturbance to habitat not considered in the ASC and in Section D.8 of the Final Order of
10 November 8, 2002. The habitats are the construction staging and laydown area, the spoils
11 disposal area, and the bald eagle nest on Crims Island.
12

13 **Construction Staging and Laydown Area and the Spoils Disposal Area.** Two of those
14 areas, the construction staging and laydown area and the spoils disposal area, were
15 addressed in Exhibit P (Attachment 9 to the amendment request). Exhibit P indicated that
16 all habitat disturbed by the laydown area and the spoils disposal area would be in Habitat
17 Category 4, for which the mitigation goal is no net loss in either existing habitat quantity or
18 quality. Exhibit P demonstrated that, with revegetation of the disturbed areas under current
19 Site Certificate conditions, there would be no net loss in either existing habitat quantity or
20 quality. For these two areas, the Council finds that the requested amendments relating to
21 the construction staging and laydown area and the spoils disposal area are consistent with
22 the fish and wildlife habitat mitigation goals and standards of OAR 635-415-0025 in effect
23 as of September 1, 2000.
24

25 **Osprey Nest.** As discussed in Section IV.A, above, PGE requested several changes to
26 conditions of approval regarding fish and wildlife habitat. PGE requested that the Council
27 delete current Condition D.8(7), which required the certificate holder to relocate an
28 existing osprey nest, because the ospreys have already developed a new nest site. ODFW
29 concurred with PGE's request. As explained below, PGE proposed an unrelated, new
30 condition to be numbered D.8(7).
31

32 **Raptor Nests on Artificial Nesting Platforms on Power Poles.** In addition, PGE
33 requested that the Council revise Condition D.8(8) to clarify that protection buffers or other
34 restrictions and mitigation for impacts to raptor nests do not apply to an artificial nesting
35 platform installed by Clatskanie PUD on a PUD power pole. This would apply to the
36 power pole that contains the osprey nest that was the subject of Condition D.8(7). ODFW
37 concurred with this request.
38

39 **Control of Nuisance and Invasive Species.** PGE also requested that the Council modify
40 Condition D.8(20), which requires monitoring and control of nuisance and invasive
41 species, to include the spoils disposal area and the construction staging and laydown area
42 northwest of the energy facility site.
43

44 **Bald Eagles' Nest.** After the date the Council approved the facility a pair of bald eagles
45 built a new nest at the northwest tip (downstream end) of Crims Island. The nest is within

1 0.5 miles of the energy facility site. It is visible from the site during the winter and early
2 spring, but is completely obscured during late spring and summer when the surrounding
3 trees have leafed out.

4
5 The nest site is considered Habitat Category 2 under ODFW rules. The mitigation goal, if
6 impacts are unavoidable, is no net loss of either habitat quantity or quality and to provide a
7 net benefit of habitat quantity or quality.

8
9 The PGE amendment request addressed the new nest under the Council's Threatened and
10 Endangered Species Standard, but not under the Council's Fish and Wildlife Habitat
11 Standard. PGE prepared an Addendum to the original 2002 Biological Assessment for the
12 Port Westward Generating Project ("Addendum"). The Addendum addresses the new bald
13 eagles' nest. PGE submitted the Addendum to the U.S. Fish and Wildlife Service
14 ("USFWS") in order to fulfill the requirements of Section 7(c) of the federal Endangered
15 Species Act of 1973. The Addendum found that because the nest is within 0.5 miles of the
16 site and is within direct "line of sight" during the early phase of the nesting season, the
17 facility could have an adverse impact on bald eagle nesting, particularly during
18 construction due to unavoidable noise and visual activity. The Addendum concluded that
19 the energy facility "may affect, and is likely to adversely affect bald eagles." PGE
20 requested that the USFWS prepare a Biological Opinion and an Incidental Take Statement
21 for the project. PGE expects that the USFWS will grant an incidental take in this situation.

22
23 PGE, in its amendment request proposed a new condition to address the Council's
24 Threatened and Endangered Species Standard, OAR 345-022-0070. The Department
25 recommended that the Council require that PGE have the Biological Opinion and
26 Incidental Take Statement before beginning construction. The proposed condition is at
27 Sections IV.A.16 and IV.B.3, above.

28
29 During its review of PGE's amendment request, the Department requested that PGE
30 provide further information to demonstrate compliance with the Council's Fish and
31 Wildlife Habitat Standard. The Department, ODFW, and PGE acknowledged that the
32 energy facility may adversely affect the use of the new nest site by bald eagles during the
33 period of construction. This would constitute a short-term (two to three nesting seasons)
34 loss of habitat quality. The overall goal of the ODFW Fish and Wildlife Habitat Mitigation
35 Policy is to avoid long-term or permanent loss of fish or wildlife habitat. The policy
36 recognizes and allows for some short-term loss. The Department and ODFW
37 recommended that the Council find that in this situation, the loss of three nesting seasons
38 would not be a long-term loss and would not be inconsistent with the ODFW habitat
39 mitigation policy.

40
41 The Department, ODFW and PGE also agreed that it is not clear if operation would
42 adversely affect use of the nest site over the long term. If operation does not adversely
43 affect bald eagle nesting, the loss of habitat quality would be short-term and the facility
44 would meet the ODFW goal of no net loss of habitat quantity or quality. However, if the
45 operation of the facility were to interfere with bald eagle nesting at this nest site over a long

1 period (many nesting seasons), this would constitute a loss of habitat quality and would
2 require mitigation consistent with the requirements of the ODFW habitat mitigation policy
3 at OAR 635-415-0025. For this reason, the ODFW recommended a new condition for the
4 site certificate that addresses the Council's Fish and Wildlife Habitat Standard. PGE
5 amended its request to include ODFW's proposed condition (see Section IV.A.12,
6 proposed Condition D.8(7)). It requires the Certificate Holder to monitor the nest during
7 the three complete nesting periods after beginning operation of the energy facility and to
8 provide appropriate mitigation if monitoring shows that operation of the energy facility
9 results in a loss of habitat quality.

10
11 The Council finds that the potential loss of three bald eagle nesting seasons at this nest site
12 as a result of project construction is not a long-term loss of habitat quality. The Council
13 further finds that the long term effects of project operation on bald eagle nesting habitat are
14 uncertain and the Council adopts a condition that provides for mitigation, if necessary, as
15 stated in Section IV.A.12, above.

16
17 The Council finds that with the conditions and the findings noted above, the amendment
18 request meets the requirements of Fish and Wildlife Habitat Standard, OAR 345-022-0060.

19
20 **Conclusion.** The Council finds that the proposed changes to the facility meet the
21 requirements of OAR 345-022-0060.

22
23 **I. Threatened and Endangered Species Standard, OAR 345-022-0070**

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

- 26 (1) For plant species that the Oregon Department of Agriculture has listed
27 as threatened or endangered under ORS 564.105(2), the design,
28 construction, operation and retirement of the proposed facility, taking
29 into account mitigation:
30 (a) Are consistent with the protection and conservation program, if
31 any, that the Oregon Department of Agriculture has adopted
32 under ORS 564.105(3); or
33 (b) If the Oregon Department of Agriculture has not adopted a
34 protection and conservation program, are not likely to cause a
35 significant reduction in the likelihood of survival or recovery of
36 the species; and
37 (2) For wildlife species that the Oregon Fish and Wildlife Commission has
38 listed as threatened or endangered under ORS 496.172(2), the design,
39 construction, operation and retirement of the proposed facility, taking
40 into account mitigation, are not likely to cause a significant reduction
41 in the likelihood of survival or recovery of the species.

42
43 **Discussion.** The utilities and above-ground structures proposed by this amendment would
44 be located within the energy facility site and roadway and water line corridors
45 contemplated for development and analyzed in Exhibit Q of the ASC for impacts on listed

1 plant and wildlife species. In Section D.9 of the Final Order of November 8, 2002, the
2 Council found that, with the imposition of the eight conditions in Section D.9 of the Site
3 Certificate, the facility will not have an adverse impact on any threatened, endangered, or
4 candidate plant species or their habitat.

5
6 The conditions primarily regulate the construction of the transmission line; and, they are
7 equally applicable to the minor realignments of the transmission line proposed in this
8 request. The new laydown area northwest of the energy facility site, and the new structures
9 and related corridor near the existing PGE intake structure, will not be located within area
10 identified as Columbia white-tailed deer habitat on Figure Q-5.2 of the ASC (March 2002).
11 Although the spoils disposal area would be located within deer habitat, the impact on
12 habitat would be temporary as discussed in Exhibit P (Attachment 9), and PGE would
13 revegetate the area to avoid any loss of habitat value.

14
15 PGE requested one modified condition and one new condition. PGE requested that the
16 Council modify Condition D.9(6) to allow construction activities during the peregrine
17 falcon critical nesting period from January 1 to June 30 if those activities involve lower
18 levels of visible activity. ODFW concurred with PGE's request, but recommended
19 additions to the condition to address noise and to provide for monitoring and preparation of
20 a contingency plan if the peregrine falcon pair's nesting activities are disturbed by
21 construction of the transmission line terminus. PGE then amended its request to
22 incorporate into the condition the changes that ODFW recommended. (See Section
23 IV.A.14 and IV.B.4, above.)

24
25 PGE also requested that the Council adopt a new Condition D.9(9) to require that the
26 Certificate Holder protect a new bald eagle nest at the northwest tip (downstream end) of
27 Crims Island by constructing and operating the energy facility consistent with the final
28 Biological Opinion and Incidental Take Statement that will be issued by the U.S. Fish and
29 Wildlife Service. The Department recommended a modification to the proposed condition
30 to ensure that PGE obtains the Biological Opinion and Incidental Take Statement before
31 undertaking construction during the nesting season. (See Section IVA.15 and IV.B.2,
32 above) With these modified conditions, Council finds that the design, construction,
33 operation and retirement of the energy facility would comply with the Threatened and
34 Endangered Species standard.

35
36 **Conclusion.** The Council finds that the proposed changes to the facility meet the
37 requirements of OAR 345-022-0070.

38
39 **J. Scenic and Aesthetic Values Standard, OAR 345-022-0080**

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

1
2 **Discussion.** The impact of the facility on scenic and aesthetic values was addressed in
3 Exhibit R of the ASC, and the additional structures proposed by PGE are within the
4 analysis area considered therein. In Section D.10 of the Final Order of November 8, 2004,
5 the Council concluded that, with the imposition of the seven conditions set forth in Section
6 D.10 of the Site Certificate, the energy facility would meet the Scenic and Aesthetic Values
7 Standard. These conditions require the applicant to remove construction equipment
8 following use; control dust during construction; shield lights to minimize off-site glare;
9 submit a lighting plan to Columbia County prior to construction; use low-glare paint
10 colors; and revegetate any undeveloped areas disturbed by the construction of related and
11 supporting pipelines.

12
13 Federal land management plans: There are no applicable federal land management plans
14 pertaining to the areas of the proposed facility modifications.

15
16 Local land use plans: As discussed in the Final Order of November 8, 2004, the Columbia
17 County Comprehensive Plan identifies one scenic resource within the analysis area that
18 could be affected by the proposed energy facility, i.e., U.S. Highway 30 between Deer
19 Island and Rainier, Oregon. The modifications proposed in this request do not alter the
20 impacts of the transmission line in the vicinity of that scenic resource.

21
22 Key observation points: The ASC used key observation points (“KOPs”) as an approach
23 to analyzing visual impacts of the energy facility and its related or supporting facilities.
24 KOPs are public viewing locations identified as most representative of visually sensitive
25 locations for viewing the proposed energy facility. KOPs are attractants for drawing the
26 viewer and focusing attention on a view or vista. PGE’s analysis of KOPs included
27 identification of potential viewing locations using available mapping and then field-testing
28 each of those locations through visitation and photo documentation. PGE identified and
29 evaluated KOPs for visual sensitivity.

30
31 For the energy facility site, KOPs on the Oregon side of the Columbia River occur along
32 Mayger Road, Kallunki Road, and U.S. Highway 30. KOPs on the Washington side of the
33 Columbia River occur along State Route 4 (“SR 4”) and pull-offs along SR 4. The
34 proposed spoils disposal site and construction staging and laydown area would be
35 temporarily disturbed during construction of the energy facility, but would be revegetated
36 in accordance with the requirements of the Site Certificate. Two small structures would be
37 constructed near the existing PGE water intake structure on Bradbury Slough. The impacts
38 of these two structures, which total only about 750 square feet in area, would be minimal
39 due to their small size and the established industrial nature of the area.

40
41 The ASC indicated that a number of road crossings are important KOPs for the proposed
42 transmission line. However, only the proposed realignment of the transmission line in the
43 vicinity of the Allston Substation would be close to a road. As proposed by PGE, the
44 alignment for Alternative 4 would be moved to the east, along either the west or east side

1 of Heath Road. Views in the area of Allston Substation are of low sensitivity due to the
2 large number of transmission lines already in the area.

3
4 The Council finds that the new and modified facilities comply with the Scenic and
5 Aesthetic Values Standard, and no additional conditions beyond those currently set forth in
6 Section D.10 are necessary.

7
8 **Conclusion.** The Council finds that the proposed changes to the facility meet the
9 requirements of OAR 345-022-0080.

10
11 **K. Historic, Cultural, and Archeological Resources Standard, OAR 345-022-0090**

- 12 (1) Except for facilities described in sections (2) and (3), to issue a site
13 certificate, the Council must find that the construction, operation and
14 retirement of the facility, taking into account mitigation, are not likely to
15 result in significant adverse impacts to:
- 16 (a) Historic, cultural or archaeological resources that have been listed
17 on, or would likely be listed on the National Register of Historic
18 Places;
 - 19 (b) For a facility on private land, archaeological objects, as defined in
20 ORS 358.905(1)(a), or archaeological sites, as defined in ORS
21 358.905(1)(c); and
 - 22 (c) For a facility on public land, archaeological sites, as defined in ORS
23 358.905(1)(c). * * *
- 24

25 **Discussion.** Historic, cultural and archaeological resources within the vicinity of the
26 energy facility area were addressed in Exhibit S of the ASC. In Section D.11 of the Final
27 Order, the Council found that, with the imposition of the conditions in Section D.11 of the
28 Site Certificate, the construction of the energy facility and its related or supporting facilities
29 would have no effect on identified cultural resources. The new laydown area, northwest of
30 the energy facility site, will not involve any disturbance to the subsurface. Similarly, the
31 spoils disposal area would be used for disposal of excess soil from construction. No
32 excavation would occur that could disturb subsurface cultural or archaeological resources,
33 if present. The two new structures (for chlorination and electrical controls) near the
34 existing PGE water intake structure would be located in a previously disturbed area that
35 would also be used for construction staging and laydown.

36
37 In Ordinance No. 2003-6, Columbia County adopted a new inventory of significant
38 historical sites as part of Article XI of the County's Comprehensive Plan. In addition, the
39 Ordinance includes the results of the "Columbia County Intensive-Level Historic Survey,"
40 which includes the inventoried sites as well as others determined not to be significant. The
41 facility modifications proposed in PGE's amendment request, including the minor
42 alterations in transmission alignments, would not affect any historic resources identified in
43 Article XI or in the broader survey.

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

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

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

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

16
17 **Discussion.** Recreational facilities and opportunities were described in Exhibit T of the
18 ASC. The new or modified facilities proposed in this amendment request would be within
19 the 5-mile analysis area described therein. In Section D.12 of the Final Order of November
20 8, 2002, the Council found that the energy facility would not adversely affect recreational
21 opportunities within a five-mile analysis area around the energy facility site and the
22 transmission corridor.

23
24 This amendment request proposed minor changes in the transmission alignment, all of
25 which would be well within the analysis area considered in the ASC. The new laydown
26 area and the spoils disposal area would be temporary disturbances on land zoned for
27 industrial use. They would not affect recreational opportunities. The two new structures in
28 the vicinity of the existing PGE water intake structure would occupy a combined area of
29 about 750 square feet. They would not interfere with use of the Mayger Boat Ramp,
30 owned and operated by ODFW, which is located to the southeast on Bradbury Slough.

31
32 **Conclusion.** The Council finds that the proposed changes to the facility meet the
33 requirements of OAR 345-022-0100.

34
35 **M. Public Services Standard, OAR 345-022-0110**

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

1 **Discussion.** All of the proposed new or modified aspects of the facility would be within
2 the public services analysis area in Exhibit U of the ASC. In Section D.13 of the Final
3 Order of November 8, 2002, the Council found that, with the imposition of the ten
4 conditions of approval set forth in Section D.13 of the Site Certificate, the facility would
5 not adversely affect the listed public services. The new laydown area, spoils disposal area,
6 minor transmission realignment, and new upland structures at the existing water intake
7 facility would not alter the operation of the energy facility in a manner that would alter the
8 impact of the facility on the public services.

9
10 **Conclusion.** The Council finds that the proposed changes to the facility meet the
11 requirements of OAR 345-022-0110.

12
13 **N. Waste Minimization Standard, OAR 345-022-0120**

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

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

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

25
26 **Discussion.** The Waste Minimization Standard was addressed in Exhibit V of the ASC and
27 in Section D.14 of the Final Order of November 8, 2004. The Council imposed five
28 conditions in Section D.14 of the Site Certificate to ensure compliance with the waste
29 minimization standard.

30
31 The proposed amendments would not alter the applicant's solid waste and wastewater
32 generation and disposal plans. The spoils disposal area would be used solely for disposal
33 of clean excess soil from the construction of the energy facility, which is not considered
34 "solid waste" under Department of Environmental Quality rules. Moreover, the spoils
35 disposal area would be reclaimed by revegetating the area when disposal activities are
36 complete. Therefore, Council finds that the original findings are sufficient to demonstrate
37 compliance with the Waste Minimization Standard and no additional conditions are
38 necessary to maintain compliance.

39
40 **Conclusion.** The Council finds that the proposed changes to the facility meet the
41 requirements of OAR 345-022-0120.

1 **O. Carbon Dioxide Standard**
2 **Standard for Base Load Gas Plants, OAR 345-024-0550**

3 To issue a site certificate for a base load gas plant, the Council must find
4 that the net carbon dioxide emissions rate of the proposed facility does not
5 exceed 0.675 pounds of carbon dioxide per kilowatt-hour of net electric
6 power output, with carbon dioxide emissions and net electric power output
7 measured on a new and clean basis. For a base load gas plant designed with
8 power or a augmentation technology as defined in OAR 345-001-0010, the
9 Council shall apply the standard for a non-base load power plant, as
10 described in OAR 345-024-0590, to the incremental carbon dioxide
11 emissions from the designed operation of the power augmentation
12 technology.***
13

14 **Discussion.** PGE’s proposed changes do not affect compliance with the Council’s Carbon
15 Dioxide Standard, set forth at OAR 345-024-0500 through 345-024-0720. Unrelated to
16 this amendment request, on December 2, 2004, the Council approved a revised form of the
17 Memorandum of Understanding (“MOU”) between the Certificate Holder and the Climate
18 Trust for implementation of the monetary path, including a revised form of a letter of
19 credit. The Council attaches the revised MOU to the Site Certificate as “Attachment
20 A-Optional”.
21

22 **Conclusion.** The Council finds that the proposed changes to the facility meet the
23 requirements of OAR 345-024-0550 through -0720.
24

25 **P. Noise OAR 340-035-0035(1)(b)(B)**

26 The Council applies and enforces the Department of Environmental Quality’s (“DEQ”)
27 noise standards for energy facilities under its jurisdiction. The DEQ noise regulations for
28 industrial and commercial noise sources apply to the Project. Under the DEQ regulations,
29 the generating facility would be located on a “previously unused industrial site” and
30 according to the regulations:
31

32 No person owning or controlling a new industrial or commercial noise
33 source located on a previously unused industrial or commercial site shall
34 cause or permit the operation of that noise source if the noise levels
35 generated or indirectly caused by that noise source increase the ambient
36 statistical noise levels, L₁₀ or L₅₀, by more than 10 dBA in any one hour, or
37 exceed the levels specified in Table 8, as measured at an appropriate
38 measurement point. OAR 340-035-0035(1)(b)(B)(i).
39

40 **Discussion.** DEQ noise regulations for industrial and commercial noise sources apply to
41 the energy facility. The alterations to the energy facility that PGE proposes would not alter
42 operational noise levels at the facility. The Council finds that the findings in the Final
43 Orders demonstrate that the energy facility would meet the DEQ noise standards applicable
44 to the facility, OAR 340-035-0035(1)(b)(B)(i).
45

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

3
4 **Q. Wetlands, OAR 345-022-0000**

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

14
15 **Discussion.** To determine whether the facility changes proposed in its amendment request
16 would impact any jurisdictional wetlands, PGE conducted on-site delineation field studies
17 of the areas to be impacted by the new or relocated facilities. The delineation, identified as
18 Appendix J-1 to the request (Attachment 8), shows that the proposed new transmission
19 tower locations east of Heath Road near the Allston Substation and at Trojan Heights and
20 the spoils disposal area would create no additional impacts on wetlands. The relocation of
21 a transmission tower south of the Allston Substation would reduce wetland impacts.

22
23 Wetlands are present west of Heath Road. If the transmission alignment in Alternative 4 is
24 moved east, but remains on the west side of Heath Road (Figure C-4), PGE would locate
25 the transmission towers to avoid wetlands, as indicated in its revised Figure J-1.10, which
26 it submitted on December 16, 2004.

27
28 The locations for the other facilities, including the new laydown area northwest of the
29 energy facility site, and the chlorination and electrical control buildings near the existing
30 PGE water intake structure, were delineated in the ASC (Figure J-1.4, ASC, March 2002).
31 No wetlands are present in those areas.

32
33 The spoils disposal area would be immediately adjacent to delineated wetlands, as shown
34 on revised Figure J-1.12 of December 2004. Due to the proximity to wetlands, PGE
35 proposed a new Condition E.1.b(3) to require it clearly stake the wetland boundary before
36 any disturbance, including disposal of soil, in the spoils disposal area, and that the staking
37 be left in place until all soil disturbing activity has been completed.

38
39 The approved boundary of the energy facility includes a small encroachment into
40 wetland 4 along the southeastern border of the energy facility site adjacent to the
41 switchyard. The Certificate Holder is required to provide mitigation for that impact on the
42 wetland, along with other approved impacts pursuant to the Removal/Fill permit that the
43 Council approved as Attachment C to the Site Certificate. In a letter dated December 9,
44 2004, PGE indicated that it had reduced the size of the switchyard area. Therefore, the
45 energy facility site would not impact that edge of the wetland. Nevertheless, PGE did not

1 request a reduction in its wetland mitigation area. Construction activity would still occur
2 in the vicinity of the wetland in that area. The Council expands that condition to cover
3 staking wetland 4 in the vicinity of the energy facility and the new construction
4 laydown/staging areas. (See Section IV.A.17 and IV.B.5.)

5
6 In a letter dated December 16, 2004, Dana Field, Department of State Lands, concurred
7 with the wetland delineations, as they were modified during the review.

8
9 **Conclusion.** The Council finds that approval of this amendment request will satisfy the
10 Council's obligation to determine compliance with DSL removal/fill permit requirements.

11
12 **R. Public Health and Safety, ORS 469.401(2)**

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

15
16 **Discussion.** In Section E.1.c of the Final Order of November 8, 2002, the Council found
17 that the facility, if designed per the proposed conditions, will protect public health and
18 safety. The subject conditions primarily govern the design and placement of the
19 transmission lines to minimize alternating current electric fields and induced currents.
20 Pursuant to the Final Order on Request for Amendment No. One, dated December 5, 2003,
21 the Council amended Conditions 2, 3, 6, 7, and 8 of Section E.1.c. of the Site Certificate to
22 reference the new backup electricity line. Although this amendment request would slightly
23 alter transmission alignments, it would not add additional transmission lines. With the
24 conditions in the Site Certificate, the Council's existing findings in Section E.1.c of the
25 Final Order of November 8, 2002, are sufficient to demonstrate compliance with the Public
26 Health and Safety standard.

27
28 **Conclusion.** The Council finds that the proposed changes to the facility continue to meet
29 the Council's conditions that protect public health and safety, pursuant to ORS 469.401(2).

30
31 **S. Water Pollution Control Facilities Permit**

32 The development of an onsite sewage treatment system incorporating a septic tank, dosing
33 tank, and bottomless sand filter is considered a form of wastewater discharge that requires
34 a Water Pollution Control Facilities ("WPCF") permit from DEQ. The WPCF permit is a
35 state level permit that falls under Council jurisdiction. Pursuant to ORS 469.401, the
36 Council determined in its Final Order when adopting the Site Certificate that DEQ should
37 issue the WPCF permit. The Council finds that the proposed amendments would have no
38 impact on compliance with the Water Pollution Control Facilities permit.

39
40 **Conclusion.** The Council finds that the proposed changes to the facility continue to meet
41 the Council's conditions of the Water Pollution Control Facilities permit, pursuant to ORS
42 469.401.

1 **VI. Conclusions**

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

10
11 Based on the above findings, the Council concludes that it should amend the Second
12 Amended Site Certificate for the Port Westward Generating Project as the Certificate
13 Holder requests with modifications to the conditions as noted above in Section IV.

14
15 **FINAL ORDER**

16
17 Based on the above findings of fact, discussions and conclusions of law, the Energy
18 Facility Siting Council determines that it shall approve Amendment Number Three and that
19 the chairperson of the Council shall execute the Site Certificate Amendment in the form of
20 the "Third Amended Site Certificate for the Port Westward Generating Project." This
21 incorporates Attachments to the Second Amended Site Certificate for the Port Westward
22 Generating Project. The Third Amended Site Certificate for the Port Westward Generating
23 Project, with Attachments, is attached to this order and is incorporated by reference into
24 this order.

25
26 Approved this 28th day of January 2005.

27
28
29
30 

31
32 _____
33 Karen H. Green, Chair
34 Oregon Energy Facility Siting Council

35 ATTACHMENT: THIRD AMENDED SITE CERTIFICATE WITH ATTACHMENTS

36
37 **NOTICE OF THE RIGHT TO APPEAL**

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

