BEFORE THE ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

IN THE MATTER OF THE SITE CERTIFICATE FOR
THE PORT WESTWARD GENERATING PROJECT
REQUEST FOR AMENDMENT NO. THREE

FINAL ORDER

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

I. Summary and Background of the Request for Amendment
On November 3, 2004, Portland General Electric Company ("PGE" or the "Certificate Holder") submitted to the Council its Request for Third Amendment to the Site Certificate for the Port Westward Generating Project ("PWGP" or the "Project"). The principal modifications that PGE requested are:

(1) changes to the electrical transmission line alignment along Heath Road adjacent to the Allston Substation, in an area south of the Allston Substation, and in the area known as Trojan Heights;

(2) addition of construction staging and laydown areas near the energy facility site;

(3) addition of an area south of the energy facility site for disposal of excess soil from construction;

(4) addition of an auxiliary boiler within the energy facility site;

(5) inclusion of the proposed switchyard as part of Phase 1 rather than Phase 2;

(6) new buildings at the existing PGE intake structure on Bradbury slough for electrical controls and chlorination, respectively;

(7) reduction in the required retirement funds; and,

(8) new conditions and modification of other conditions regarding habitat protection for osprey, peregrine falcons, and bald eagles.

On December 13, 2004, in response to a recommendations in a letter from the Department of Fish and Wildlife ("ODFW"), dated December 9, 2004, PGE proposed a new condition regarding the habitat for bald eagles that have begun nesting near the energy facility since the Council granted the Site Certificate. It also proposed modifications to its proposed condition relating to peregrine falcons.

A. Name and Address of the Certificate Holder
Portland General Electric Company
121 SW Salmon Street
Portland, OR 97204

The individual responsible for submitting the request:
B. **Description of the Facility**

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

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

II. **Description of the Proposed Amendment**

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

A. **Changes to Energy Facility:**

1. **Auxiliary boiler:** PGE proposed to include an auxiliary boiler at the energy facility site as part of Phase 1. The auxiliary boiler would be included within the footprint previously identified for Phase 1. The auxiliary boiler would be installed to supply steam for plant start-ups and short duration shut-downs. During start-ups this steam would be used for cooling the combustion components of the gas turbine and supplying the steam turbine steam seal system. During short duration plant shut-downs, it would supply steam to the steam turbine steam supply piping to decrease the start-up time. The auxiliary boiler would use natural gas fuel. PGE expects it to operate about 751 hours per year. The auxiliary boiler designed fuel use would be about 91 million Btu/hr at full load.

2. **Construction and operation of switchyard as part of Phase 1:** The Site Certificate currently includes the switchyard as part of Phase 2. PGE proposed to construct the switchyard as part of Phase 1 of the energy facility. This would be only a change in timing, not a change in the overall impact of the energy facility.

3. **Seven-cell cooling tower:** Phase 1 would include a 7-cell cooling tower. Previous site plans have shown a total of 10 cooling tower cells for Phases 1 and 2 combined. This change does not require an amendment to the text of the Site Certificate, because Section C.1.a of the Site Certificate describes only the dimensions of the cooling towers ("cooling towers and circulating water pumps will
cover an area of about 75 feet by 650 feet and will stand about 50 feet high"). The
7-cell cooling tower would be within the dimensions described in the Site
Certificate.

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

B. Additions or Changes to Related or Supporting Facilities

(1) Spoils disposal area: As shown on Figure B-2 (Attachment 5, revised December 9,
2004), PGE proposed to use about 11.6 acres for disposal of excess soils from
construction of the energy facility. Excess soils from the energy facility
construction site would be spread across the spoils site. The spoils site would be
revegetated in accordance with existing Site Certificate conditions.

(2) Temporary construction staging and laydown area: PGE proposed to use a
construction staging and laydown area of 6.3 acres that would be located northwest
of the energy facility site. (See revised Figure J-1.4, submitted December 9, 2004).
PGE would clear the laydown area of trees and shrubs and then cover it with gravel
over a layer of geotech fabric. PGE would use the laydown area for storing
equipment and materials and as a staging area for constructing the power plant.
PGE would demarcate near-by wetland #4 during construction to prevent any
impacts on that wetland.

(3) New buildings at intake structure. PGE proposed to construct two small structures
near the existing PGE water intake structure on Bradbury Slough. One structure,
about 20 feet by 30 feet, would be for chlorination. One structure, about 10 feet by
15 feet, would be for electrical control. Underground lines would connect these
structures to the intake structure. The structures and underground connection
would be in a previously developed and disturbed area that is currently covered
with gravel.
(4) Increase in size of demineralized water pipeline from Beaver Generating Plant to energy facility site: The Site Certificate, Section C.1.b, described the demineralized water line from the PGE Beaver Generating Plant to the energy facility as “about 4 inches in diameter.” PGE proposed to use a line of up to 6 inches in diameter to meet its needs. The location of the line would be the same as indicated in PGE’s Request for Amendment No. One.

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

(6) Transmission realignment and changes in transmission locations:

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

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

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

C. Other Proposed Changes to the Site Certificate

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

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

(2) New conditions and modification of certain conditions regarding habitat protection. PGE proposed to eliminate a condition relating to moving an artificial nest platform
with an unused osprey nest near the energy facility site and to change limitations on
construction activities near a peregrine falcon nest close to the Trojan switchyard.
It incorporated changes proposed by ODFW into its proposed conditions.

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

III. Procedural History

A. Department of Energy Review Steps

1. The Certificate Holder’s Request

PGE submitted the Request for Third Amendment to the Site Certificate for the Port
Westward Generating Project on November 3, 2004. In response to the Department of
Energy’s (“Department”) questions, it amended its request and provided additional
information in support of its amendment requests in correspondence on December 8, 9,

2. Notice to the Site Certificate Holder

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

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

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

Department of Geology and Mineral Industries
Department of Fish and Wildlife
Department of State Lands
Department of Agriculture
Water Resources Department
Department of Parks and Recreation
State Historic Preservation Office
Department of Environmental Quality
Office of State Fire Marshall
Public Utilities Commission
Oregon Building Codes Division
Department of Forestry
Northwest Power and Conservation Council
Department of Transportation
Dept. of Land Conservation and Development
Department of Aviation
City of Astoria
City of Rainier
City of Saint Helens
City of Clatskanie
4. Replies
On November 12, 2004, the Department of State Lands ("DSL") e-mailed the Department of Energy, PGE and PGE’s wetlands consultant a series of comments and questions about the wetland delineation for the proposed changes. On December 9 and 16, 2004, PGE responded. On December 16, DSL concurred that the proposed changes would not affect wetlands.

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

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

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

6. Public Comments on the Request
The Department received no comments from the public on the request for amendment.

7. Proposed Order
The Department issued its proposed order on December 16, 2004.

8. Public Notice of Proposed Order
On December 17, 2004, the Department mailed a notice of its proposed order to all persons on the Council’s general mailing list and persons on the Council’s special mailing list for the Project, pursuant to OAR 345-027-0070(1)(b). The notice asked for comments to the Department by January 18, 2005.
9. Public Comments on the Proposed Order
The Department received no written comments on the proposed order and no requests for a
contested case. It received several requests for information about the amendment request.

B. Council Review Steps
1. Council Notice
The Department mailed the request for amendment and a memo summarizing the request
to the Council on November 5, 2004. On December 17, 2004, the Department mailed the
proposed order to the Council and to persons who had requested it.

2. Council Action on the Amendment Request
On January 28, 2005, the Council took action on the amendment request during its regular
meeting in Tigard, Oregon.

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

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

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

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

1(d) “Could require a new condition or change to a condition in the site
certificate.” As shown below in Section IV, the PGE requested amendments to the
A. **Site Certificate Holder’s Proposed Changes**

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

1. **Title Page and Page 1:**
   Second Amended Site Certificate for the Port Westward Generating Project.

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

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

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

   In interpreting this site certificate, any ambiguity shall be clarified by reference to, and in the following priority: this Site Certificate, the record of the proceedings which led to the Final Order, and the Application for a Site Certificate for the Port Westward Generating Project. As used in this Site Certificate, the “application for site certificate” or the “ASC” includes: (a) the Application for a Site Certificate for the Port Westward Generating Project, which the Office of Energy (“Office”) filed on April 11, 2002; (b) the Certificate Holder’s Request for First Amendment to the Site Certificate for the Port Westward Generating Project, which the Council received on October 25, 2003; and (c) the Certificate Holder’s Request for Second Amendment to
the Site Certificate for the Port Westward Generating Project, which the Council
received on May 7, 2004; and (d) the Certificate Holder’s Request for Third
Amendment to the Site Certificate for the Port Westward Generating Project, which
the Council received on November 3, 2004. [Amendments No. 1 & 2 & 3]

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3. **Page 3, Section B, Site Certification (10):**
The Certificate Holder may develop the energy facility in two phases. Phase 1 would
consist of the southernmost generating unit (“Unit 1”), including one combustion
turbine generator, heat recovery steam generator, steam generator, one step-up
transformer bank, auxiliary transformer, and cooling towers. Phase 1 would also
include all of the energy facility components common to the two units and the related
or supporting facilities, except the switchyard. Phase 2 would consist of the
northernmost generating unit (“Unit 2”), and its associated facilities and the
switchyard. All conditions of this Site Certificate apply equally to Phase 1 and Phase
2, unless a condition specifies different obligations for Phase 1 or Phase 2.
[Amendment Amendments No. 1 & 3]

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

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

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

5. **Page 5, Section C.1.a, Major Structures and Equipment, beginning at Line 4:**
The Certificate Holder may develop the whole facility at the same time or it may
develop only one of the generating units and the related or supporting facilities
(“Phase 1”) or the two units of the energy facility in two distinct phases (“Phase 1”
and “Phase 2”). As referred to in this Site Certificate, the Certificate Holder would
develop Phase 1 first if it develops the energy facility in phases. Phase 1 would
consist of the southernmost generating unit (“Unit 1”), including a combustion
turbine generator, heat recovery steam generator, steam generator, one step-up
transformer bank, auxiliary transformer, and cooling tower. Phase 1 would also
include all of the energy facility components common to the two units and the related
or supporting facilities, except the switchyard, which the Certificate Holder would
construct with the northernmost generating unit (“Unit 2”) and associated facilities as
part of Phase 2. [Amendment Amendments No. 1 & 3]

**Discussion.** PGE proposed to revise the description of the phasing of energy facility
development to include the switchyard in Phase 1 rather than Phase 2.
Output. The energy facility will have a net electric power output of about 560 MW (280 MW per generating unit) at an average annual site condition of 51 degrees Fahrenheit, 14.691 pounds per square inch barometric pressure, and 78 percent relative humidity. The new and clean heat rate will be about 6,790 Btu (higher heating value). [Amendment Amendments No. 1 & 3]

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

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

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

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

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

The energy facility will require no new state-administered water right, water rights transfer, or surface water right permit for water supply. The Port of St. Helens has an existing municipal water use permit for 30 cfs and PGE has and existing industrial water right for 11.3 cfs. [Amendment PGE expects to apply for a partial transfer of a water right associated with PGE’s Trojan Nuclear Plant, Certificate No. 73396, but an
adequate water supply is available for operation of the energy facility without that such a transfer. [Amendments No. 1 & 3]

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

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

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

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

Temporary Construction Staging and Laydown Areas. A temporary construction staging and laydown area of 6.3 acres will be located northwest of the energy facility site. Another laydown area of about 6 acres will be located on upland south of the existing PGE water intake structure. The areas will be used for storing equipment and materials and as staging areas for constructing the power plant. [Amendment No. 3]
Spoils Disposal Area. Excess soils from construction at the energy facility site will be spread across the spoils disposal site of about 11.6 acres, which will be located southeast of the PGE Beaver Generating Plant. [Amendment No. 3].

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

8. Page 9, Section C.2.b, Related or Supporting Facility Sites, insert at line 9:
Chlorination and Electrical Control Buildings. Two small structures will be constructed on upland south of the existing PGE Beaver Generating Plant water intake structure in Bradbury Slough. The two structures, with a combined footprint of about 750 square feet, will lie within the 852-acre parcel leased to PGE by the Port of St. Helens and situated within Section 15, Township 8 North, Range 4 West, Willamette Meridian. [Amendment No. 3].
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9. Page 9, Section C.2.b, Related or Supporting Facility Sites, insert at line 24:
Temporary Construction Staging and Laydown Areas. A temporary construction staging and laydown area of 6.3 acres will be located northwest of the energy facility, within the 852-acre parcel leased to PGE by the Port of St. Helens and situated within Sections 15 and 16, Township 8 North, Range 4 West, Willamette Meridian. Another laydown area of about 6 acres will be located on upland south of the existing PGE water intake structure within Section 15, Township 8 North, Range 4 West, Willamette Meridian. The areas will be used for storing equipment and materials and as staging areas for constructing the power plant. [Amendment No. 3]

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

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

Notwithstanding Conditions D.3(1), D.3(2), and D.3(3), if the Certificate Holder begins construction of the Port Westward to BPA Alliston Substation Transmission Line before beginning construction of the energy facility and other related or supporting facilities, Conditions D.3(1), D.3(2), and D.3(3) shall apply to that transmission line separately for as long as it is under construction or operation.
independent of the energy facility; and, a retirement plan that the Certificate Holder submits may provide that the Port Westward to BPA Allston Substation Transmission Line remain transmission lines constructed and operated under this Site Certificate remain in operation to serve other energy facilities. [Amendment No. 3]

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

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

Before beginning construction of the energy facility, the Certificate Holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in the amount of $8,640,0003,449,000 (in 2002 dollars as of the second quarter) naming the State of Oregon, acting by and through the Council, as beneficiary or payee. [Amendment No. 3]

(a) If the Certificate Holder develops the energy facility in phases, then before beginning construction of Phase 1, the Certificate Holder shall submit a bond or letter of credit in the amount of $4,700,0002,415,000 (in 2002 dollars as of the second quarter) Before beginning construction of Phase 2, the Certificate Holder shall increase the amount of such bond or letter of credit to $8,640,0003,449,000 (in 2002 dollars as of the second quarter). [Amendment No. 1] [Amendments No. 1 & 3]

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

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

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

(c) [Deleted]. [Amendments No. 1 & 3]
(d) The form of the bond or letter of credit and identity of the issuer shall be subject to approval by the Council.

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

(f) The calculation of 20022004 dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services’ “Oregon Economic and Revenue Forecast,” or by any successor agency (the “Index”). If at any time the Index is no longer published, the Council shall select a comparable calculation of 20022004 dollars. [Amendment No. 3]

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

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

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

Page 21, Section D.8, Fish and Wildlife Habitat (7):
During construction of Phase 1 of the energy facility, the Certificate Holder shall relocate the existing osprey nest platform to an ODFW-approved location for the period between October 1 and March 30. [Amendment No. 1]
Should operation of the energy facility diminish the quality of nesting habitat for bald eagles on Crims Island, the Certificate Holder shall mitigate that impact in order to provide no net loss of habitat, plus a net benefit of habitat quality.

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

(b) The Certificate Holder shall collect and provide accurate and timely information to the Department and ODFW on the status (e.g., active or inactive; successful or unsuccessful) of the bald eagle nest site throughout three complete bald eagle breeding seasons after beginning commercial operation of the energy facility.
(c) The Certificate Holder shall consult with the Department and ODFW to develop a standardized set of procedures for 1) monitoring the nest site, 2) ensuring that the data collected are sufficient for assessing any impact to habitat quality, and 3) ensuring that the data are reported in a timely manner.

(d) The Certificate Holder, in consultation with the Department and ODFW, shall use the monitoring data to assess whether an impact to habitat quality has occurred.

(e) If the Department, in consultation with ODFW, determines that a negative impact to habitat quality has occurred as a result of operating the energy facility during the monitoring period, the Certificate Holder shall consult with the Department and ODFW to develop an appropriate mitigation strategy to meet the mitigation goal for Habitat Category 2.

(f) The Certificate Holder shall fund and implement the mitigation strategy within two years of the Department’s determination that a negative impact to the habitat quality for the nesting bald eagles has occurred from operation of the energy facility. [Amendments No. 1 & 3]

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

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

Page 21, Section D.8, Fish and Wildlife Habitat (8):
Before beginning construction of the facility, the Certificate Holder shall conduct pre-construction surveys within the analysis area and establish construction buffers around raptor nests during the nesting season, as approved by ODFW. If it is not practical for the Certificate Holder to avoid the nests of non-listed, threatened or endangered raptor species, the Certificate Holder shall implement in a timely manner a mitigation project approved by ODFW that meets the requirements of the Habitat Mitigation policy for “no net loss” appropriate to the Habitat Category. An exception to this is the artificial nesting platform located adjacent to the energy facility site that was installed by Clatskanie PUD to deter ospreys from nesting on a nearby PUD.
power pole. Protection buffers or other restrictions and mitigation do not apply to
this artificial nesting site and are not required by ODFW. [Amendment No. 3]

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

14 Page 22, Section D.8, Fish and Wildlife Habitat (20):
The Certificate Holder shall monitor and control nuisance and invasive plant species
annually for a period of five years in areas where vegetation removal and/or
revegetation has occurred in (1) riparian areas and wetlands along the transmission
line rights-of-way, and (2) in areas temporarily disturbed by construction of the raw
water, gas, and process water discharge lines, in the temporary construction staging
and laydown area northwest of the energy facility site, and in the spoils disposal site.
[Amendment No. 3]

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

15 Page 23, Section D.9, Threatened and Endangered Species (6):
The Certificate Holder shall not construct at the transmission line terminus at the
Trojan Nuclear Plant during the critical peregrine falcon nesting period from January
1 to June 30.
The Certificate Holder shall not conduct construction activities at the transmission
line terminus at the Trojan Nuclear Plant that generate extreme noise or high levels of
visual disturbance during the peregrine falcon critical nesting period from January 1
to June 30. Such activities include pile driving, excavation, and grading for ground
stabilization purposes and site preparation. Construction activities involving lower
levels of visible activity and less noise are allowed throughout the year. These
include such activities as excavating and setting forms, pouring footings, erecting
power line towers and bus duct, hanging conductor wires, installing control wires,
and testing. Prior to beginning construction at the terminus site, PGE shall provide
the Department and ODFW with a final construction schedule that lists various
construction activities and time periods when specific work will be conducted. The
schedule shall include information on the types of heavy construction equipment that
will be used and the approximate number of workers and shall demonstrate that the
construction activities are consistent with the limitations of this condition. PGE shall
provide scheduling updates as necessary to alert the Department and ODFW ahead of
time of any proposed changes in the work schedule should the changes occur during
the critical nesting period. PGE shall not proceed with construction activity at the
transmission line terminus at the Trojan Nuclear Plant during the peregrine falcon
critical nesting period from January 1 to June 30 to the extent that ODFW or the
Department determines that the activity is not consistent with the limitations of this
condition. PGE staff will monitor peregrine falcon activity at the transmission line
terminus at the Trojan Nuclear Plant between January 1 to June 30 of construction years. Prior to initiation of construction at the transmission line terminus at the Trojan Nuclear Plant, PGE will coordinate with ODFW and will consequently prepare a peregrine falcon contingency plan. This contingency plan would address actions to be undertaken in the event that monitoring shows the peregrine falcon pair’s nesting activities to be negatively affected by the transmission line construction activities. [Amendment No. 3]

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

PGE, ODFW and the Department concur on the need to monitor peregrine falcon activity at the terminus during construction and the need for having a contingency plan if the construction activities disturb the peregrine falcon pair’s nesting activities. This condition is conditional on whether the peregrine falcons are still on the site during construction.

Other work that PGE has planned at the Trojan Nuclear Plant site that is unrelated to building the terminus of the Port Westward transmission line may affect whether the peregrine falcons are still nesting near the terminus when the transmission line construction occurs.

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

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

17 Page 34, Section E.1.b, Wetlands and Removal/Fill Permit, insert new (3)
The Certificate Holder shall clearly stake the wetland boundary adjacent to the spoils disposal area prior to any ground disturbing activity in the spoils disposal area, and shall maintain the staking until all ground-disturbing activities in the spoils disposal area have been completed. All contractors disposing of soil in the spoils disposal area shall be instructed as to the purpose of the staking and to avoid any impact to the wetlands. Amendment No. 31
Discussion. PGE proposed to add Condition E.1.b(3) to require that the Certificate Holder clearly stake the wetland boundary adjacent to the spoils disposal area prior to any disturbance, including disposal of soil, in the spoils disposal area and that the Certificate Holder leave the staking in place until it has completed all soil disturbing activity.

B. Department of Energy's Proposed Changes

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

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

Before beginning construction of the energy facility, the Certificate Holder shall submit to the State of Oregon, through the Council, a bond or letter of credit in the amount of $8,640,000 (4,449,000 $4,938,800 (in 20022004 dollars as of the second quarter) naming the State of Oregon, acting by and through the Council, as beneficiary or payee. [Amendment No. 3]

(a) If the Certificate Holder develops the energy facility in phases, then before beginning construction of Phase 1, the Certificate Holder shall submit a bond or letter of credit in the amount of $4,700,000 (2,415,000 $3,682,000 (in 20022004 dollars as of the second quarter). Before beginning construction of Phase 2, the Certificate Holder shall increase the amount of such bond or letter of credit to $8,640,000 (4,449,000 $4,938,800 (in 20022004 dollars as of the second quarter). [Amendment No. 4][Amendments No. 1 & 3]

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

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

(c) [Deleted]. [Amendments No. 1 & 3]
(d) The form of the bond or letter of credit and identity of the issuer shall be subject to approval by the Council.

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

(f) The calculation of 20022004 dollars shall be made using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight, as published in the Oregon Department of Administrative Services' "Oregon Economic and Revenue Forecast," or by any successor agency (the "Index"). If at any time the Index is no longer published, the Council shall select a comparable calculation of 20022004 dollars. [Amendment No. 3]

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

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

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

2. Page 23, Section D.9, Threatened and Endangered Species (6):
The Certificate Holder shall not construct at the transmission line terminus at the Trojan Nuclear Plant during the critical peregrine falcon nesting period from January 1 to June 30.

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

(a) Prior to beginning construction at the terminus site, the Certificate Holder PGE shall provide the Department and ODFW with a final construction schedule that lists various construction activities, and time periods when specific work will be conducted. The schedule shall include information on the types of heavy construction equipment that will be used and the approximate number of workers and shall demonstrate that the construction
activities are consistent with the limitations of this condition. The Certificate Holder-PGE shall provide scheduling updates as necessary to alert the Department and ODFW ahead of time of any proposed changes in the work schedule should the changes occur during the critical nesting period.

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

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

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

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

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

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

Discussion. In order to comply with the Threatened and Endangered Species Standard, the Certificate Holder must have the federal Biological Opinion and Incidental Take Statement...
before beginning construction because the Council is relying on the federal action to find
that PGE meets the Council standard.

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

Discussion. The Department recommended that the Council correct the sequence
numbering.

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

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

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

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

A. Updated List of Property Owners
OAR 345-027-0060(1)(g) requires “for an amendment to change the site boundary or to
extend the deadlines for beginning or completing construction of the facility, an updated
list of the owners of property located within or adjacent to the site of the facility, as
described in OAR 345-021-0010(1)(f).” Because the changes to the location of related or
supporting facilities change the site boundary, PGE provided an updated list as part of its
amendment request.
B. **Organizational Expertise Standard, OAR 345-022-0010**

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

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

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

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

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

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

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

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

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

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

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

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

4. Third-Party Services and Permits, OAR 345-022-0010(4)
If the applicant relies on a permit or approval issued to a third party and the third party does not have the necessary permit or approval at the time the Council issues the site certificate, the Council may issue the site certificate subject to the condition that the certificate holder shall not commence construction or operation as appropriate until the third party has obtained the necessary permit or approval and the applicant has a contract or other arrangement for access to the resource or service secured by that permit or approval.

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

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

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

The Council also finds that the request will not affect the findings in the Final Orders or conditions in the Site Certificate relating to acquiring third party permits or contracts.
Conclusion. The Council finds that the Certificate Holder meets the requirements of OAR 345-022-0010(4).

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

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

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

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

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

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

The new approach also accounts for the likelihood that PGE, as the holder of a long-term ground lease for the energy facility site, would not choose to incur the expense of removing the foundation of the energy facility. The energy facility site is zoned for industrial use, and the site would be reused for a compatible purpose that could take advantage of the foundation. In addition, PGE reported that it expects that the transmission lines constructed under the Site Certificate would continue to be used. Due to existing and anticipated congestion on transmission facilities in the area and the difficulty of siting new transmission facilities, the Council finds that the transmission lines likely would be used by area utilities to bring electricity to the area from the BPA system.
PGE estimated that the direct cost for retirement of the energy facility would be $3,449,000 (2004 dollars as of the fourth quarter). PGE estimated that the cost of retiring one unit would be about 70 percent of the cost for both units. Therefore, PGE proposed that a retirement bond or letter of credit for Phase 1 be $2,415,000 (2004 dollars as of the fourth quarter), increasing with construction of Phase 2 to $3,449,000 (2004 dollars as of the fourth quarter). The Department reviewed these calculations. The Council adopts these calculations as the direct costs for retiring the facility. However, these calculations of direct costs do not reflect the full amount of the security required for the retirement fund.

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

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

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

D. Structural Standard, OAR 345-022-0020

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

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

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

(c) The applicant, through appropriate site-specific study, has adequately characterized the potential geological and soils hazards of the site and its vicinity that could, in the absence of a seismic event, adversely affect, or be aggravated by, the construction and operation of the proposed facility; and
(d) The applicant can design, engineer and construct the facility to avoid dangers to human safety presented by the hazards identified in subsection (c).***

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

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

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

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

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

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

The ten conditions in Section D.6 of the Site Certificate require the Certificate Holder to employ soil erosion and sediment runoff control measures during any soil disturbing activities; use native seed mixes to restore vegetation to the extent practicable and landscape disturbed portions of the site upon completion of soil disturbing activities; protect soil from chemical spills on site; and minimize drift from cooling towers. These conditions will regulate construction of the new facilities proposed in this amendment request and the use and restoration of the additional laydown area and spoils disposal area. The Council finds that the findings in the Final Orders regarding the Soil Protection Standard apply to this request.
Conclusion. The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0022.

F. Land Use Standard, OAR 345-022-0030

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

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

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

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

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

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

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

Discussion. PGE submitted a “Land Use Standard Analysis” as Attachment 3 to its request. All of the new or modified elements of the proposed facility would be located entirely within Columbia County’s planning jurisdiction. As a result, these facilities would be subject to the provisions of the Columbia County Zoning Ordinance (“CCZO”). The proposed alterations to the facility are limited to three zones: the Resource Industrial Planned Development (“RIPD”) zone, the Forest Agriculture FA-19 zone, and the Primary Forest PF-76 zone. Attachment 3 of the amendment request provided a land use analysis for the facility changes that PGE proposed.
The following new or modified elements of the proposed facility that are addressed in this land use analysis are located on the 852-acre tract leased to PGE and known as the Port Westward Industrial Park, which is zoned by Columbia County as RIPD: spoils disposal area; temporary construction staging and laydown area; and two small buildings near PGE’s water intake structure. As indicated in the original Final Order, none of these areas or buildings is within a Columbia County Flood Hazard Overlay Zone.

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

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

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

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

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

PGE identified the following new provision not addressed in the previous Final Orders.
CCZO §1563 Standards for Approval:

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

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

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

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

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

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

Conclusion. The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0040.
H. Fish and Wildlife Habitat Standard, OAR 345-022-0060

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

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

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

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

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

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

Bald Eagles' Nest. After the date the Council approved the facility a pair of bald eagles built a new nest at the northwest tip (downstream end) of Crims Island. The nest is within
0.5 miles of the energy facility site. It is visible from the site during the winter and early
spring, but is completely obscured during late spring and summer when the surrounding
trees have leafed out.

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

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

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

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

The Department, ODFW and PGE also agreed that it is not clear if operation would
adversely affect use of the nest site over the long term. If operation does not adversely
affect bald eagle nesting, the loss of habitat quality would be short-term and the facility
would meet the ODFW goal of no net loss of habitat quantity or quality. However, if the
operation of the facility were to interfere with bald eagle nesting at this nest site over a long
period (many nesting seasons), this would constitute a loss of habitat quality and would
require mitigation consistent with the requirements of the ODFW habitat mitigation policy
at OAR 635-415-0025. For this reason, the ODFW recommended a new condition for the
site certificate that addresses the Council's Fish and Wildlife Habitat Standard. PGE
amended its request to include ODFW's proposed condition (see Section IV.A.12,
proposed Condition D.8(7)). It requires the Certificate Holder to monitor the nest during
the three complete nesting periods after beginning operation of the energy facility and to
provide appropriate mitigation if monitoring shows that operation of the energy facility
results in a loss of habitat quality.

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

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

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

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

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

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

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

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

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

**Discussion.** The utilities and above-ground structures proposed by this amendment would
be located within the energy facility site and roadway and water line corridors
contemplated for development and analyzed in Exhibit Q of the ASC for impacts on listed
plant and wildlife species. In Section D.9 of the Final Order of November 8, 2002, the Council found that, with the imposition of the eight conditions in Section D.9 of the Site Certificate, the facility will not have an adverse impact on any threatened, endangered, or candidate plant species or their habitat.

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

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

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

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

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

(1) Except for facilities described in sections (2), to issue a site certificate, the Council must find that the design, construction, operation and retirement of the facility, taking into account mitigation, are not likely to result in significant adverse impact to scenic and aesthetic values identified as significant or important in applicable federal land management plans or in local land use plans in the analysis area described in the project order. ***
Discussion. The impact of the facility on scenic and aesthetic values was addressed in Exhibit R of the ASC, and the additional structures proposed by PGE are within the analysis area considered therein. In Section D.10 of the Final Order of November 8, 2004, the Council concluded that, with the imposition of the seven conditions set forth in Section D.10 of the Site Certificate, the energy facility would meet the Scenic and Aesthetic Values Standard. These conditions require the applicant to remove construction equipment following use; control dust during construction; shield lights to minimize off-site glare; submit a lighting plan to Columbia County prior to construction; use low-glare paint colors; and revegetate any undeveloped areas disturbed by the construction of related and supporting pipelines.

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

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

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

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

The ASC indicated that a number of road crossings are important KOPs for the proposed transmission line. However, only the proposed realignment of the transmission line in the vicinity of the Allston Substation would be close to a road. As proposed by PGE, the alignment for Alternative 4 would be moved to the east, along either the west or east side
of Heath Road. Views in the area of Allston Substation are of low sensitivity due to the
large number of transmission lines already in the area.

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

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

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

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

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

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

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

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

In Ordinance No. 2003-6, Columbia County adopted a new inventory of significant
historical sites as part of Article XI of the County's Comprehensive Plan. In addition, the
Ordinance includes the results of the “Columbia County Intensive-Level Historic Survey,”
which includes the inventoried sites as well as others determined not to be significant. The
facility modifications proposed in PGE's amendment request, including the minor
alterations in transmission alignments, would not affect any historic resources identified in
Article XI or in the broader survey.
Conclusion. The Council finds that the proposed changes to the facility meet the requirements of OAR 345-022-0090.

L. Recreation Standard, OAR 345-022-0100
(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of a facility, taking into account mitigation, are not likely to result in a significant adverse impact to important recreational opportunities in the analysis area as described in the project order. The Council shall consider the following factors in judging the importance of a recreational opportunity:
(a) Any special designation or management of the location;
(b) The degree of demand;
(c) Outstanding or unusual qualities;
(d) Availability or rareness;
(e) Irreplaceability or irretrievability of the opportunity. ***

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

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

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

M. Public Services Standard, OAR 345-022-0110
(1) Except for facilities described in sections (2) and (3), to issue a site certificate, the Council must find that the construction and operation of the facility, taking into account mitigation, are not likely to result in significant adverse impact to the ability of public and private providers within the analysis area described in the project order to provide: sewers and sewage treatment, water, storm water drainage, solid waste management, housing, traffic safety, police and fire protection, health care and schools. ***
Discussion. All of the proposed new or modified aspects of the facility would be within the public services analysis area in Exhibit U of the ASC. In Section D.13 of the Final Order of November 8, 2002, the Council found that, with the imposition of the ten conditions of approval set forth in Section D.13 of the Site Certificate, the facility would not adversely affect the listed public services. The new laydown area, spoils disposal area, minor transmission realignment, and new upland structures at the existing water intake facility would not alter the operation of the energy facility in a manner that would alter the impact of the facility on the public services.

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

N. Waste Minimization Standard, OAR 345-022-0120

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The approved boundary of the energy facility includes a small encroachment into
wetland 4 along the southeastern border of the energy facility site adjacent to the
switchyard. The Certificate Holder is required to provide mitigation for that impact on the
wetland, along with other approved impacts pursuant to the Removal/Fill permit that the
Council approved as Attachment C to the Site Certificate. In a letter dated December 9,
2004, PGE indicated that it had reduced the size of the switchyard area. Therefore, the
energy facility site would not impact that edge of the wetland. Nevertheless, PGE did not
request a reduction in its wetland mitigation area. Construction activity would still occur in the vicinity of the wetland in that area. The Council expands that condition to cover staking wetland 4 in the vicinity of the energy facility and the new construction laydown/staging areas. (See Section IV.A.17 and IV.B.5.)

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

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

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

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

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

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

**S. Water Pollution Control Facilities Permit**

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

**Conclusion.** The Council finds that the proposed changes to the facility continue to meet the Council’s conditions of the Water Pollution Control Facilities permit, pursuant to ORS 469.401.
VI. Conclusions
The Council finds that the actions in the Certificate Holder’s request are consistent with current Council rules, with other applicable statutes and rules, and with statewide land use planning goals and would not cause a significant adverse impact to public health and safety or the environment. In preparing this proposed order, the Council limited its consideration to the effects that may be produced by the proposed changes to the facility site as described in the Certificate Holder’s Request for Third Amendment to the Site Certificate for the Port Westward Generating Project, as amended. In considering those effects, the Council reviewed state statutes, administrative rules, and local government ordinances.

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

FINAL ORDER
Based on the above findings of fact, discussions and conclusions of law, the Energy Facility Siting Council determines that it shall approve Amendment Number Three and that the chairperson of the Council shall execute the Site Certificate Amendment in the form of the “Third Amended Site Certificate for the Port Westward Generating Project.” This incorporates Attachments to the Second Amended Site Certificate for the Port Westward Generating Project. The Third Amended Site Certificate for the Port Westward Generating Project, with Attachments, is attached to this order and is incorporated by reference into this order.

Approved this 28th day of January 2005.

Karen H. Green, Chair
Oregon Energy Facility Siting Council

ATTACHMENT: THIRD AMENDED SITE CERTIFICATE WITH ATTACHMENTS

NOTICE OF THE RIGHT TO APPEAL
You have the right to appeal this order to the Oregon Supreme Court pursuant to ORS 469.405. To appeal, you must file a petition for judicial review with the Supreme Court within 60 days from the day this order was served on you. If this order was personally delivered to you, the date of service is the date you received this order. If this order was mailed to you, the date of service is the date it was mailed, not the day you received it. If you do not file a petition for judicial review within the 60-day time period, you lose your right to appeal.