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BEFORE THE ENERGY FACILITY SITING COUNCIL
OF THE
STATE OF OREGON

IN THE MATTER OF THE FOURTH REQUEST
TO AMEND THE SITE CERTIFICATE FOR THE
PORT WESTWARD GENERATING PROJECT

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FINAL ORDER ON
AMENDMENT #4

Energy Facility Siting Council

May 19, 2006

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1

PORT WESTWARD GENERATING PROJECT
SITE CERTIFICATE AMENDMENT #4
FINAL ORDER

2

3 **I. INTRODUCTION**

4 The Energy Facility Siting Council (EFSC or “the Council) issues this order in accordance with
5 ORS 469.405 and OAR 345-027-0070 and OAR 345-027-0080. This order addresses a request by
6 Portland General Electric (PGE) for amendment #4 to its site certificate for the Port Westward
7 Generating Project (PWGP). The Port Westward Generating Project is a nominal 560 megawatt
8 natural gas-fired electric generating facility located about 4.5 miles north of Clatskanie, Oregon.
9

10 In its request for amendment #4, PGE requests the temporary use of 6.08 acres of land that is
11 currently not included in the site for construction laydown and staging. The land requested is
12 adjacent to land currently part of the site and currently used for laydown and storage.
13

14 The Council issued the site certificate for PWGP on November 8, 2002. The Council granted
15 amendment #1 on December 5, 2003, amendment #2 on September 24, 2004, and amendment #3 on
16 January 28, 2005. This amendment is amendment #4.
17

18 The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this order, unless
19 otherwise defined in this order.
20

21 **II. PROCEDURAL HISTORY and EXPEDITED REVIEW**

22 **A. Authorization of Expedited Review**

23 PGE submitted the Request for Fourth Amendment to the Oregon Department of Energy (ODOE
24 or “the Department”) on January 18, 2006. PGE requested expedited amendment review under
25 OAR 345-027-0080, based on the following:
26

- 27
- 28 • Major plant components such as the heat recovery steam generator, the main generator
29 transformers, steam turbine, and gas turbine and generators have arrived ahead of schedule.
30 Although PGE’s construction contractor is working to install these components as quickly as
31 possible, they still have taken up much of the laydown and staging area currently available.
 - 32 • Unusually heavy rains in December 2005 and January 2006. Rainfall during these months
33 has far exceeded normal, even for Western Oregon in winter. The heavy rains have slowed
34 construction, making equipment installation difficult. The rains have also caused some of
35 the available staging area to be too soft for staging heavy equipment. The impact of the
36 weather on construction would not have reasonably been foreseen.
 - 37
 - 38 • Construction of the plant is already underway, so that delay in the review of the request for
39 additional staging area will directly affect construction.
40
 - 41 • The extra storage area requested is all on land that is contiguous to the existing site and is in
42 some cases surrounded by existing site on two or even three sides. All of this land was in
43 the study area for either the original site certificate review or the review of one of the
44 previous amendments. The land has been used for construction of the Port of St. Helens

1 water project (not under Council jurisdiction) and is already impacted. Therefore the use of
2 additional temporary laydown area is unlikely to adversely impact any of the resources
3 protected by Council standards.
4

5 The Council Chair found that the request meets the criteria for expedited review at OAR 345-027-
6 0080, and granted expedited review on January 19, 2006¹.
7

8 **B. Notice and Comment Period**

9 On January 19, 2006 ODOE issued notice and copies of the amendment request to the agencies,
10 tribes and governments listed in OAR 345-002-0040 and asked for comments by February 3, 2006.
11 The Oregon Department of State Lands commented that it had no concerns regarding wetlands.
12 The Oregon Department of Agricultural (Plant Conservation Program) stated that it had no concerns
13 regarding protection of endangered plant species. And, the City of Clatskanie wrote in support of
14 the proposal. No other agency, tribe or local government commented.
15

16 On January 25, 2006, ODOE mailed notice to the Council's mailing list and to the list of adjacent
17 property owners and interested persons that ODOE maintains for the project. The notice stated how
18 the public could review PGE's request, and requested comments by February 9, 2006. The
19 Department received no comments by this date.
20

21 **C. Council Consideration of Temporary Order**

22 The Department issued a Proposed Order on this amendment request on February 6, 2006. On
23 February 7, 2006 the Department issued written notice to the Council's mailing list and the list of
24 persons interested in the Port Westward project. In the notice, the Department stated where the
25 public could review a copy of the Proposed Order.
26

27 The Council considered the Department's Proposed Order on February 10, 2006. Under the
28 expedited process of OAR 345-027-0080, the Council issues this order only as a Temporary Order.
29 Any person may request a contested case on this amendment request order within 15 days of the
30 date that the Council issues this Temporary Order. If no one requests a contested case, then the
31 Council will finalize the Order. If a contested case is requested, then the Council will determine
32 whether the contested case should be granted, as set forth in OAR 345-027-0080(7). For this
33 Temporary Order, the 15th day after issuance is a Saturday. Therefore, in its public notice, the
34 Department stated that the deadline to request a contested case was February 27, 2006. There were
35 no requests for contested case. Therefore, the Council adopts this Final Order approving the
36 amendment.
37

38 In reviewing the proposed amendment, the Council applies substantive land use criteria in effect on
39 the date PGE submitted the request for amendment and all other state statutes, administrative rules
40 and local government ordinances in effect on the date of the amendment.
41

42 **III. DESCRIPTION OF THE AMENDMENT**

43 **A. Description of the Facility**

44 The facility is a 560 megawatt ("MW") natural-gas-fired, combined-cycle generating facility. The
45 facility will be located in Columbia County, Oregon, about seven miles by road northeast of the

¹ Chair Hans Neukomm concurred with these findings and sent a letter granting expedited review by electronic mail to Tom Stoops, Siting Manager, on January 19. He signed the letter on January 20, 2006.

1 City of Clatskanie. The facility is described in greater detail at Section C. of the site certificate.
2 PGE began construction in February 2005.

3 **B. Changes to the Facility Proposed by PGE**

4 The only proposed change is to the temporary laydown and construction staging areas. PGE
5 requests an additional 6.08 acres of temporary laydown and construction staging areas, shown on
6 Figure B-2 rev 1 of PGE's "Request for Fourth Amendment". The new areas are adjacent to the
7 energy facility site. The laydown area will be used for storing equipment and materials and as a
8 staging area for constructing the power plant.

9 **C. Changes to Site Certificate Proposed by PGE**

10 PGE proposes to amend two paragraphs in the Facility Description of its Third Amended Site
11 Certificate. Specifically, PGE proposes to amend section C.1.a at page 8 of the Third Amended Site
12 Certificate to read:

13
14 Temporary Construction Staging and Laydown Areas. A temporaryTemporary
15 construction staging and laydown area of 6.3areas totaling approximately 12.4 acres will be
16 located northwest ofaround the energy facility site. Another laydown area of about 6 acres
17 will be located on upland south of the existing PGE water intake structure. The areas will be
18 used for storing equipment and materials and as staging areas for constructing the power
19 plant. [AmendmentAmendments No. 3 & 4]

20
21 PGE also proposes to amend this section at page 10 of the Third Amended Site Certificate to read:

22
23 Temporary Construction Staging and Laydown Areas. A temporaryTemporary
24 construction staging and laydown area of 6.3areas totaling approximately 12.4 acres will be
25 located northwest ofaround the energy facility, within the 852-acre parcel leased to PGE by
26 the Port of St. Helens and situated within Sections 15 and 16, Township 8 North, Range 4
27 West, Willamette Meridian.

28
29 The expanded construction laydown and staging areas requested by PGE are shown on Figure B-2
30 Rev.1 , submitted with the request for amendment.

31 32 **IV. FINDINGS ON COMPLIANCE WITH STANDARDS**

33 Under the General Standard of Review, OAR 345-022-0000(1), to issue the requested amendment
34 the Council must determine that it complies with:

- 35 a) standards adopted by the Council pursuant to ORS 469.501,
36 b) other Oregon statutes and administrative rules identified in the project order, excluding those for
37 which the federal government has delegated the decision on compliance to a state agency other
38 than the Council, and
39 c) statewide planning goals as provided in OAR 345-022-0030

40
41 The permits issued by agencies other than the Council under this site certificate are: the WPCF
42 process wastewater permit issued by DEQ, a sanitary waste WPCF permit issued by DEQ and a
43 Removal/Fill (wetlands) permit issued by the State Lands Division. This amendment does not
44 affect any of those permits.

1 **A. Council Standards in OAR Chapter 345 Division 22**

2 **1. Organizational Expertise OAR 345-022-0010**

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

13 *(2) The Council may base its findings under section (1) on a rebuttable presumption that an*
14 *applicant has organizational, managerial and technical expertise, if the applicant has an ISO*
15 *9000 or ISO 14000 certified program and proposes to design, construct and operate the facility*
16 *according to that program.*

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

24 *(4) If the applicant relies on a permit or approval issued to a third party and the third party*
25 *does not have the necessary permit or approval at the time the Council issues the site certificate,*
26 *the Council may issue the site certificate subject to the condition that the certificate holder shall*
27 *not commence construction or operation as appropriate until the third party has obtained the*
28 *necessary permit or approval and the applicant has a contract or other arrangement for access to*
29 *the resource or service secured by that permit or approval.*

30
31 **Discussion**

32
33 The standard is written in four sections. Section (1) addresses the certificate holder's qualifications
34 to construct, operate and retire the facility in compliance with applicable regulations and conditions
35 of the site certificate. In its Final Order approving the PWGP Site Certificate, the Council found
36 that PGE had the required organizational expertise. The Council affirmed this finding in its orders
37 approving amendments 1 through 3. The use of additional temporary laydown area does not affect
38 PGE's qualifications or expertise. The Council finds that the proposed amendment meets section
39 (1) of the standard.

40
41 Section (2) of the standard does not apply because PGE did not take credit for any ISO program.

42
43 Sections (3) and (4) of the standard address third party permits (permits that the certificate holder
44 will not obtain directly but rely on a third party). No permits of EFSC or any other agency are
45 affected by the use of additional temporary laydown area.

1 **Conclusion**

2 The Council finds that the proposed amendment complies with the Organizational Expertise
3 Standard. No new conditions are required.
4

5 **2. Structural Standard OAR 345-022-0020**

6 To issue the amendment, the Council must find that:

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

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

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

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

20 **Discussion**

21 In its Final Order approving the PWGP Site Certificate, the Council found that the project satisfies
22 the Structural Standard. The temporary laydown area requested is adjacent to the current energy
23 facility site and within the study area for this standard. Therefore all prior findings regarding
24 seismic hazard apply equally to the requested laydown area. Moreover, PGE proposes to use the
25 additional land only as temporary laydown area and does not propose to construct any structures
26 on it. Nothing in the proposed amendment alters the basis for the Council's previous findings of
27 compliance with the standard.

28 **Conclusion**

29
30 The Council finds that the proposed amendment complies with the Structural Standard. No new
31 conditions are required.
32

33 **3. Soil Standard OAR 345-022-0022**

34 To issue the amendment, the Council must find that

35 ****the design, construction, operation and retirement of the facility, taking into account*
36 *mitigation, are not likely to result in a significant adverse impact to soils including, but not limited*
37 *to, erosion and chemical factors such as salt deposition from cooling towers, land application of*
38 *liquid effluent, and chemical spills.*

39 In the Final Order approving the PWGP site certificate, the Council found that the construction and
40 operation of the project was not likely to have a significant adverse impact on soils, based on certain
41 conditions. The Council affirmed this finding in approving amendment #3, which included some
42 temporary laydown area. The additional laydown areas proposed in this fourth amendment are
43 adjacent to the existing site and in some cases surrounded on two or more sides by the existing site.
44 Therefore, the Council's previous findings extend equally to these new temporary laydown areas.

1 Conditions D.6(1) to D.6(6) of the Site Certificate require PGE to employ soil erosion and sediment
2 runoff control measures during any soil disturbing activities, use native seed mixes to restore
3 vegetation to the extent practicable and landscape disturbed portions of the site upon completion of
4 soil disturbing activities. These conditions will apply to any new laydown area described in this
5 amendment, and are sufficient to regulate soil impacts of the additional laydown area. No soil
6 protection conditions beyond those already set forth in the Site Certificate are necessary.

7 **Conclusion**

8
9 The Council finds that the proposed amendment complies with the Soil Protection Standard. No
10 new conditions are required.
11

12 **4. Land Use Standard OAR 345-0222-0030**

13 To issue the amendment to the site certificate, the Council must find that:

14
15 *ORS 469.503(4) the facility complies with the statewide planning goals adopted by the Land*
16 *Conservation and Development Commission.*

17 *ORS 469.504(1) A proposed facility shall be found in compliance with the statewide*
18 *planning goals under ORS 469.503(4) if:*

19 ***

20 *(b) The council determines that:*

21 *(A) The proposed facility complies with applicable substantive criteria from the affected*
22 *local government's acknowledged comprehensive plan and land use regulations that are required*
23 *by the statewide planning goals and in effect on the date the application is submitted, and with*
24 *any Land Conservation and Development Commission administrative rules and goals and any*
25 *land use statutes directly applicable to the facility under ORS 197.646(3)***.*

26 **Discussion**

27
28
29 In the Final Order approving the PWGP site certificate, the Council found that the project complied
30 with all applicable substantive criteria from Columbia County's comprehensive plan and zoning
31 ordinance, and with LDCD rules applicable under ORS 197.646.
32

33 In its January 28, 2005 order approving amendment #3 to the site certificate, the Council found that
34 6.3 acres of temporary laydown area included in that amendment were located within the Resource
35 Industrial Planned Development (RIPD) zone in Columbia County, as is the original energy facility
36 site. The laydown area requested in this Request for Amendment #4 is adjacent to the original
37 energy facility site or to laydown area previously approved in Amendment #3, and is in the same
38 zone. In some cases, the new laydown area is bordered on two or more sides by land that was
39 previously approved. Therefore, the Council's prior findings of compliance with the applicable
40 substantive criteria from Columbia County's comprehensive land use plan apply equally to the new
41 laydown area. Nothing in this additional laydown area would alter those findings of compliance.
42 Any conditions previously imposed to ensure compliance with county land use criteria will apply to
43 the new laydown area as well.
44
45
46

1 **Conclusion**

2
3 The Council finds that the proposed amendment complies with its Land Use Standard. No new
4 conditions are required.
5

6 **5. Protected Area Standard OAR 345-022-0040**

7 To issue the amendment, the Council must find that "...the design, construction and operation of the
8 facility are not likely to result in significant adverse impact ..." to listed protected areas.

9 **Discussion**

10
11 In the Final Order approving the PWGP project, the Council concluded that all of the listed
12 Protected Areas are two miles or more from the energy facility site, and no elements of the energy
13 facility would be located within any Protected Area. The Council reaffirmed these findings in its
14 January 28, 2005 order approving amendment #3. Because the expanded laydown and staging area
15 will be temporary and will be located immediately adjacent to the energy facility site, these findings
16 continue to apply. The expansion of temporary laydown areas does not necessitate the addition of
17 any conditions of approval to maintain compliance with the Protected Areas standard.

18 **Conclusion**

19
20 The Council finds that the proposed amendment complies with the Protected Area Standard. No
21 new conditions are required.
22

23 **6. Financial Assurance and Retirement Standards OAR 345-022-0050**

24 To issue the amendment, the Council must find that:

25
26 *(1) The site, taking into account mitigation, can be restored adequately to a useful,*
27 *non-hazardous condition following permanent cessation of construction or operation of*
28 *the facility.*

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

32 **Discussion**

33
34 In its January 28, 2005 order approving amendment #3, the Council reduced the amount of the
35 surety required under section (2) of this standard, and found that PGE had a reasonable likelihood of
36 obtaining the required bond or letter of credit. Because the project is currently under construction,
37 PGE provided the required surety in the form of a letter of credit, and remains in compliance with
38 all conditions related to this standard.

39
40 The requested laydown area would not add to the amount required to retire the site after the end of
41 the facility's useful life, because PGE must restore temporary laydown areas once construction is
42 complete. Even if PGE were to halt construction before completing the project, the cost of restoring
43 and reseeded 6.08 acres of temporary laydown area is a small fraction of site restoration cost, and
44 does not alter the estimate of retirement cost that formed the basis for approval of amendment #3.
45 Therefore, the addition of this temporary laydown area does not alter Council's previous findings of
46 compliance with the standard or create the need for new or changed conditions.
47

1 **Conclusion**

2
3 The proposed amendment does not affect PGE's ability to meet the Financial Assurance and
4 Retirement standard. The Council finds that the proposed amendment meets its Retirement and
5 Financial Assurance Standard.
6

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

8 To issue the amendment, the Council must find that:

9 *“***the design, construction, operation and retirement of the facility, taking into*
10 *account mitigation, are consistent with the fish and wildlife habitat mitigation goals and*
11 *standards of OAR 635-415-0025 in effect as of September 1, 2000.”*

12
13 **Discussion**

14
15 In its Final Order approving amendment #3, the Council found that the additional construction and
16 laydown area covered in that amendment was consistent with the fish and wildlife habitat mitigation
17 goals and standards of OAR 635-415-0025. The 6.08 acres of laydown area requested in
18 amendment #4 is adjacent to those previously approved areas, and in some cases is surrounded on
19 two or more sides by previously approved construction areas. The new laydown area requested is
20 within the analysis area for fish and wildlife impacts for the site certificate or previous amendments,
21 and is located in Habitat Category 4. The Department of State Lands commented on the
22 amendment request and said that the amendment creates no new wetland concerns. All current
23 conditions under the Fish and Wildlife Habitat Standard would apply to the new laydown areas.
24 Therefore, the additional laydown area requested in amendment #4 does not alter Council's
25 previous findings of compliance with its Fish and Wildlife Habitat standard.
26

27 **Conclusion**

28
29 The Council finds that the proposed amendment complies with the Fish and Wildlife Habitat
30 Standard. No new conditions are required.
31

32 **8. Threatened and Endangered Species Standard OAR 345-022-0070**

33 To issue the amendment, the Council must find that:

34
35 *“(1) For plant species that the Oregon Department of Agriculture has listed as*
36 *threatened or endangered under ORS 564.105(2), the design, construction, operation*
37 *and retirement of the proposed facility, taking into account mitigation:*

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

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

43 *(2) For wildlife species that the Oregon Fish and Wildlife Commission has listed as*
44 *threatened or endangered under ORS 496.172(2), the design, construction, operation*
45 *and retirement of the proposed facility, taking into account mitigation, are not likely to*
46 *cause a significant reduction in the likelihood of survival or recovery of the species.”*
47

1 **Discussion**

2
3 In its Final Order approving amendment #3, the Council found that:

4 "**** the new laydown area northwest of the energy facility site, and the new structures and
5 related corridor near the existing PGE intake structure, will not be located within area
6 identified as Columbia white-tailed deer habitat on Figure Q-5.2 of the ASC (March 2002).
7 Although the spoils disposal area would be located within deer habitat, the impact on habitat
8 would be temporary as discussed in Exhibit P (Attachment 9), and PGE would revegetate
9 the area to avoid any loss of habitat value."

10
11 The additional laydown area requested in amendment #4 is adjacent to and in some cases
12 surrounded on two or more sides by previously approved construction or laydown areas. It is not in
13 an area identified as Columbia white-tailed deer habitat. And in any case, all conditions to restore
14 and reseed temporary laydown area will apply to the new areas proposed in this amendment, so that
15 any effects would be temporary. Therefore the proposed amendment does not affect the Council's
16 prior findings of compliance with the standard.

17 **Conclusion**

18
19 The Council finds that the proposed amendment complies with its Threatened and Endangered
20 Species Standard. No new conditions are required.

21
22 **9. Scenic and Aesthetic Values Standard OAR 345-022-0080**

23 To issue the amendment, the Council must find that:

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

30 *(2) The Council may issue a site certificate for a special criteria facility under OAR*
31 *345-015-0310 without making the findings described in section (1). However, the*
32 *Council may apply the requirements of section (1) to impose conditions on a site*
33 *certificate issued for such a facility."*

34
35 **Discussion**

36
37 In the Final Order approving amendment #3, the Council found that the PWGP project had no
38 adverse effect on scenic or aesthetic resources identified in local land use plans. The additional
39 temporary laydown area requested in amendment #4 is adjacent to the existing site and would not
40 add any visual impact. Columbia County has not added any new scenic or aesthetic resources to its
41 inventory within the analysis area for the facility. Conditions requiring PGE to restore and reseed
42 temporary construction laydown areas will apply to the new areas covered in this amendment.
43 Therefore the proposed amendment does not affect the Council's prior findings of compliance.
44

45 **Conclusion**

46
47 The Council finds that the proposed amendment complies with its Scenic and Aesthetic Values
48 Standard. No new conditions are required.

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

2 To issue the amendment, the Council must find that:

3
4 *“*** the construction, operation and retirement of the facility, taking into account*
5 *mitigation, are not likely to result in significant adverse impacts to:*

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

8 *(b) For a facility on private land, archaeological objects, as defined in ORS*
9 *358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*

10 *(c) For a facility on public land, archaeological sites, as defined in ORS*
11 *358.905(1)(c).”*

12 **Discussion**

13 In its Final Order approving amendment #3, the Council found that:

14
15 *“***The new laydown area, northwest of the energy facility site, will not involve any*
16 *disturbance to the subsurface. Similarly, the spoils disposal area would be used for disposal*
17 *of excess soil from construction. No excavation would occur that could disturb subsurface*
18 *cultural or archaeological resources, if present.”*

19
20 The additional laydown area requested in amendment #4 is adjacent to construction and laydown
21 areas previously approved. Since this amendment request only proposes temporary laydown areas,
22 no excavation would occur. Much of the proposed laydown area is already disturbed by previous
23 construction by the Port of St. Helens. All site certificate conditions previously imposed under the
24 Historic, Cultural and Archeological Resources standard on laydown areas approved in the site
25 certificate or prior amendments will apply equally to the areas affected by this amendment.
26

27 In Ordinance No. 2003-6, Columbia County adopted a new inventory of significant historical sites
28 as part of Article XI of the County’s Comprehensive Plan. In addition, the Ordinance includes the
29 results of the “Columbia County Intensive-Level Historic Survey,” which includes the inventoried
30 sites as well as others determined not to be significant. The expanded laydown and staging area
31 would not affect any historic resources identified in Article XI or in the broader survey.
32

33 **Conclusion**

34
35 The Council finds that the proposed amendment complies with its Historic, Cultural and
36 Archeological Resources Standard. No new conditions are required.
37

38 **11. Recreational Standard OAR 345-022-0100**

39 To issue the amendment, the Council must find that:

40
41 *“***the design, construction and operation of a facility, taking into account mitigation,*
42 *are not likely to result in a significant adverse impact to important recreational*
43 *opportunities in the analysis area as described in the project order. The Council shall*
44 *consider the following factors in judging the importance of a recreational opportunity:*

45 *(a) Any special designation or management of the location;*

46 *(b) The degree of demand;*

- 1 (c) Outstanding or unusual qualities;
2 (d) Availability or rareness;
3 (e) Irreplaceability or irretrievability of the opportunity.”

4
5 **Discussion**
6

7 In the Final Orders approving the Site Certificate and amendments, the Council found that the
8 facility would not affect any recreational resources within the analysis area. The proposed
9 amendment involves additional temporary laydown area adjacent to the existing site. The expanded
10 laydown area will be a temporary disturbance on land zoned for industrial use and will not affect
11 recreational opportunities. Therefore the amendment does not affect prior findings of compliance.
12

13 **Conclusion**
14

15 The Council finds that the proposed amendment complies with its Recreation Standard. No new
16 conditions are required.
17

18 **12. Public Services Standard OAR 345-022-0010**

19 To issue the amendment, the Council must find that:

20 *“*** the construction and operation of the facility, taking into account mitigation, are not*
21 *likely to result in significant adverse impact to the ability of public and private providers*
22 *within the analysis area described in the project order to provide: sewers and sewage*
23 *treatment, water, storm water drainage, solid waste management, housing, traffic safety,*
24 *police and fire protection, health care and schools.”*

25 **Discussion**
26

27 In its Final Order approving amendment #3, the Council found that the additional temporary
28 laydown area did not affect any of the listed public services. The expanded laydown area proposed
29 in PGE’s request for amendment #4 is adjacent to the existing site and would be used in the same
30 way as previously approved laydown areas. Therefore the proposed amendment does not change
31 any previous findings of compliance with the standard.
32

33 **Conclusion**
34

35 The Council finds that the proposed amendment complies with its Public Services Standard. No
36 new conditions are required.
37

38 **13. Waste Minimization Standard OAR 345-022-0120**

39 To issue the amendment, the Council must find that:

40 *“***(a) The applicant’s solid waste and wastewater plans are likely to minimize*
41 *generation of solid waste and wastewater in the construction, operation, and retirement*
42 *of the facility, and when solid waste or wastewater is generated, to result in recycling*
43 *and reuse of such wastes;*
44

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

4
5 **Discussion**

6 In its Final Order approving the Site Certificate, the Council imposed conditions to ensure
7 compliance with the waste minimization standard. The proposed amendment will not alter PGE's
8 solid waste and wastewater generation and disposal plans. Therefore, the Council's original
9 findings are sufficient to demonstrate compliance with the Waste Minimization standard, and no
10 additional conditions are necessary to maintain compliance.

11
12 **Conclusion**

13 The Council finds that the proposed amendment complies with its Waste Minimization Standard.
14 No new conditions are required.

15
16 **B. Public Health and Safety ORS 469.401(2)**

17 In the Final Order approving the Site Certificate, the Council considered safety factors and imposed
18 conditions that cover construction and placement of the transmission lines and do not relate to
19 temporary laydown and staging areas. The expanded laydown areas proposed in amendment #4 are
20 adjacent to laydown areas previously approved, and would be used in the same way. Therefore the
21 proposed amendment does not affect any prior Council findings regarding public health and safety,
22 and no new conditions are required.

23
24 **C. Requirements of Agencies Other than EFSC**

25 In connection with the PWGP, PGE holds a WPCF permit from the Department of Environmental
26 Quality (DEQ) for wastewater discharge and a removal/fill (wetlands) permit from Department of
27 State Lands (DSL). The PWGP project also complies with DEQ noise standards.

28
29 The addition of temporary laydown areas adjacent to the existing site does not affect the WPCF
30 permit. Similarly, the addition of temporary laydown area does not change any of the projects noise
31 characteristics and does not affect compliance with noise standards.

32
33 The expanded laydown and staging area is not within delineated wetlands, although the additional
34 laydown and staging area located adjacent to the access road into the energy facility site does abut
35 Wetland Area 4 as identified on Figure J-3.1 of the ASC (March 2002). However, Condition
36 E.1.b(3) of the Site Certificate, added pursuant to the Council's Final Order of January 28, 2005,
37 addresses this issue by requiring as follows:

38
39 "The Certificate Holder shall clearly stake the wetland boundary adjacent to the spoils
40 disposal area and the wetland number 4 boundary adjacent to the construction
41 laydown/staging areas in the vicinity of the energy facility prior to any ground disturbing
42 activity in the spoils disposal area or in the construction laydown/staging areas in the
43 vicinity of the energy facility, and shall maintain the staking until all ground-disturbing
44 activities in the spoils disposal area and in the construction laydown/staging areas in the
45 vicinity of the energy facility have been completed. The Certificate Holder shall instruct
46 all contractors disposing of soil in the spoils disposal area and using the construction
47 laydown/staging areas in the vicinity of the energy facility about the purpose of the
48 staking and shall require them to avoid any impact to the wetlands." (Emphasis added).

1 In addition, the DSL Resource Coordinator reviewed the amendment request and commented that
2 DSL required no additional conditions. The Council finds that no additional conditions are
3 required to ensure compliance with standards of other agencies.
4

5 **D. Carbon Dioxide Standards at OAR 345 Division 24**

6 The PWGP complies with Council's Standards for carbon dioxide emissions. The addition of
7 temporary laydown area does not alter carbon dioxide emissions in any way and does not require
8 new or different conditions.
9

10 **V. ORDER AND SITE CERTIFICATE AMENDMENTS**

11 The Council finds that the changes to the facility proposed in PGE's Request for Fourth
12 Amendment meet the Council's standards. Section C.1.a of the Site Certificate may be changed as
13 requested by PGE and as shown in section III.C of this Order.
14

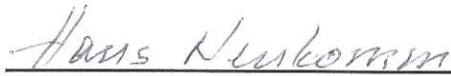
15 The Council also orders that the Site Certificate reference Figure B-2 rev.1, which PGE submitted
16 with the amendment request, by amending Section C.1.a on p. 10 as follows:
17

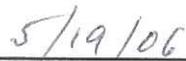
18 Temporary Construction Staging and Laydown Areas. A temporary Temporary
19 construction staging and laydown area of 6.3 areas totaling approximately 12.4 acres will be
20 located northwest of around the energy facility, within the 852-acre parcel leased to PGE by
21 the Port of St. Helens and situated within Sections 15 and 16, Township 8 North, Range 4
22 West, Willamette Meridian. Construction laydown and staging areas are as depicted on
23 Figure B-2 rev.1 as submitted with the Request for Fourth Amendment on January 18, 2006.
24

25 With this change, Council approves PGE's Request for Fourth Amendment.
26

27 Issued this day of May 19, 2006
28

ENERGY FACILITY SITING COUNCIL


Hans Neukomm, Chair


date

29 **NOTICE OF THE RIGHT TO APPEAL**

30 You have the right to appeal this order to the Oregon Supreme Court pursuant to ORS 469.405. To
31 appeal, you must file a petition for judicial review with the Supreme Court within 60 days from the
32 day this order was served on you. If this order was personally delivered to you, the date of service
33 is the date you received this order. If this order was mailed to you, the date of service is the date it
34 was mailed, not the day you received it. If you do not file a petition for judicial review within the
35 60-day time period, you lose your right to appeal.

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**PORT WESTWARD GENERATING PROJECT
SITE CERTIFICATE AMENDMENT #4
TEMPORARY ORDER**

I. INTRODUCTION

The Energy Facility Siting Council (EFSC or “the Council”) issues this order in accordance with ORS 469.405 and OAR 345-027-0070 and OAR 345-027-0080. This order addresses a request by Portland General Electric (PGE) for amendment #4 to its site certificate for the Port Westward Generating Project (PWGP). The Port Westward Generating Project is a nominal 560 megawatt natural gas-fired electric generating facility located about 4.5 miles north of Clatskanie, Oregon.

In its request for amendment #4, PGE requests the temporary use of 6.08 acres of land that is currently not included in the site for construction laydown and staging. The land requested is adjacent to land currently part of the site and currently used for laydown and storage.

The Council issued the site certificate for PWGP on November 8, 2002. The Council granted amendment #1 on December 5, 2003, amendment #2 on September 24, 2004, and amendment #3 on January 28, 2005. This amendment will be amendment #4.

The definitions in ORS 469.300 and OAR 345-001-0010 apply to terms used in this order, unless otherwise defined in this order.

II. PROCEDURAL HISTORY and EXPEDITED REVIEW

A. Authorization of Expedited Review

PGE submitted the Request for Fourth Amendment to the Oregon Department of Energy (ODOE or “the Department”) on January 18, 2005. PGE requested expedited amendment review under OAR 345-027-0080, based on the following:

- Major plant components such as the heat recovery steam generator, the main generator transformers, steam turbine, and gas turbine and generators have arrived ahead of schedule. Although PGE’s construction contractor is working to install these components as quickly as possible, they still have taken up much of the laydown and staging area currently available.
- Unusually heavy rains in December 2005 and January 2006. Rainfall during these months has far exceeded normal, even for Western Oregon in winter. The heavy rains have slowed construction, making equipment installation difficult. The rains have also caused some of the available staging area to be too soft for staging heavy equipment. The impact of the weather on construction would not have reasonably been foreseen.
- Construction of the plant is already underway, so that delay in the review of the request for additional staging area will directly affect construction.
- The extra storage area requested is all on land that is contiguous to the existing site and is in some cases surrounded by existing site on two or even three sides. All of this land was in the study area for either the original site certificate review or the review of one of the previous amendments. The land has been used for construction of the Port of St. Helens

1 water project (not under Council jurisdiction) and is already impacted. Therefore the use of
2 additional temporary laydown area is unlikely to adversely impact any of the resources
3 protected by Council standards.
4

5 The Council Chair found that the request meets the criteria for expedited review at OAR 345-027-
6 0080, and granted expedited review on January 19, 2006¹.
7

8 **B. Notice and Comment Period**

9 On January 19, 2006 ODOE issued notice and copies of the amendment request to the agencies,
10 tribes and governments listed in OAR 345-002-0040 and asked for comments by February 3, 2006.
11 The Oregon Department of State Lands commented that it had no concerns regarding wetlands.
12 The Oregon Department of Agricultural (Plant Conservation Program) stated that it had no concerns
13 regarding protection of endangered plant species. And, the City of Clatskanie wrote in support of
14 the proposal. No other agency, tribe or local government commented.
15

16 On January 25, 2006, ODOE mailed notice to the Council's mailing list and to the list of adjacent
17 property owners and interested persons that ODOE maintains for the project. The notice stated how
18 the public could review PGE's request, and requested comments by February 9, 2006. The
19 Department received no comments by this date.
20

21 **C. Council Consideration of Temporary Order**

22 The Department issued a Proposed Order on this amendment request on February 6, 2006. On
23 February 7, 2006 the Department issued written notice to the Council's mailing list and the list of
24 persons interested in the Port Westward project. In the notice, the Department stated where the
25 public could review a copy of the Proposed Order.
26

27 The Council considered the Department's Proposed Order on February 10, 2006. Under the
28 expedited process of OAR 345-027-0080, the Council issues this order only as a Temporary Order.
29 Any person may request a contested case on this amendment request order within 15 days of the
30 date that the Council issues this Temporary Order. If no one requests a contested case, then the
31 Council will finalize the Order. If a contested case is requested, then the Council will determine
32 whether the contested case should be granted, as set forth in OAR 345-027-0080(7). For this
33 Temporary Order, the 15th day after issuance is a Saturday. Therefore, in its public notice, the
34 Department stated that the deadline to request a contested case was February 27, 2006
35

36 In reviewing the proposed amendment, the Council applies substantive land use criteria in effect on
37 the date PGE submitted the request for amendment and all other state statutes, administrative rules
38 and local government ordinances in effect on the date of the amendment.
39

40 **III. DESCRIPTION OF THE PROPOSED AMENDMENT**

41 **A. Description of the Facility**

42 The facility is a 560 megawatt ("MW") natural-gas-fired, combined-cycle generating facility. The
43 facility will be located in Columbia County, Oregon, about seven miles by road northeast of the
44 City of Clatskanie. The facility is described in greater detail at Section C. of the site certificate.
45 PGE began construction in February 2005.

¹ Chair Hans Neukomm concurred with these findings and sent a letter granting expedited review by electronic mail to Tom Stoops, Siting Manager, on January 19. He signed the letter on January 20, 2006.

1 **B. Changes to the Facility Proposed by PGE**

2 The only proposed change is to the temporary laydown and construction staging areas. PGE
3 requests an additional 6.08 acres of temporary laydown and construction staging areas, shown on
4 Figure B-2 rev 1 of PGE's "Request for Fourth Amendment". The new areas are adjacent to the
5 energy facility site. The laydown area will be used for storing equipment and materials and as a
6 staging area for constructing the power plant.

7 **C. Changes to Site Certificate Proposed by PGE**

8 PGE proposes to amend two paragraphs in the Facility Description of its Third Amended Site
9 Certificate. Specifically, PGE proposes to amend section C.1.a at page 8 of the Third Amended Site
10 Certificate to read:

11
12 Temporary Construction Staging and Laydown Areas. A temporary Temporary
13 construction staging and laydown area of 6.3 areas totaling approximately 12.4 acres will be
14 located northwest of around the energy facility site. Another laydown area of about 6 acres
15 will be located on upland south of the existing PGE water intake structure. The areas will be
16 used for storing equipment and materials and as staging areas for constructing the power
17 plant. [Amendment Amendments No. 3 & 4]
18

19 PGE also proposes to amend this section at page 10 of the Third Amended Site Certificate to read:

20
21 Temporary Construction Staging and Laydown Areas. A temporary Temporary
22 construction staging and laydown area of 6.3 areas totaling approximately 12.4 acres will be
23 located northwest of around the energy facility, within the 852-acre parcel leased to PGE by
24 the Port of St. Helens and situated within Sections 15 and 16, Township 8 North, Range 4
25 West, Willamette Meridian.
26

27 The expanded construction laydown and staging areas requested by PGE are shown on Figure B-2
28 Rev.1 , submitted with the request for amendment.
29

30 **IV. FINDINGS ON COMPLIANCE WITH STANDARDS**

31 Under the General Standard of Review, OAR 345-022-0000(1), to issue the requested amendment
32 the Council must determine that it complies with:

- 33 a) standards adopted by the Council pursuant to ORS 469.501,
34 b) other Oregon statutes and administrative rules identified in the project order, excluding those for
35 which the federal government has delegated the decision on compliance to a state agency other
36 than the Council, and
37 c) statewide planning goals as provided in OAR 345-022-0030
38

39 The permits issued by agencies other than the Council under this site certificate are: the WPCF
40 process wastewater permit issued by DEQ, a sanitary waste WPCF permit issued by DEQ and a
41 Removal/Fill (wetlands) permit issued by the State Lands Division. This amendment does not
42 affect any of those permits.
43

1 **A. Council Standards in OAR Chapter 345 Division 22**

2 **1. Organizational Expertise OAR 345-022-0010**

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

13 *(2) The Council may base its findings under section (1) on a rebuttable presumption that an*
14 *applicant has organizational, managerial and technical expertise, if the applicant has an ISO*
15 *9000 or ISO 14000 certified program and proposes to design, construct and operate the facility*
16 *according to that program.*

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

24 *(4) If the applicant relies on a permit or approval issued to a third party and the third party*
25 *does not have the necessary permit or approval at the time the Council issues the site certificate,*
26 *the Council may issue the site certificate subject to the condition that the certificate holder shall*
27 *not commence construction or operation as appropriate until the third party has obtained the*
28 *necessary permit or approval and the applicant has a contract or other arrangement for access to*
29 *the resource or service secured by that permit or approval.*

30
31 **Discussion**

32
33 The standard is written in four sections. Section (1) addresses the certificate holder's qualifications
34 to construct, operate and retire the facility in compliance with applicable regulations and conditions
35 of the site certificate. In its Final Order approving the PWGP Site Certificate, the Council found
36 that PGE had the required organizational expertise. The Council affirmed this finding in its orders
37 approving amendments 1 through 3. The use of additional temporary laydown area does not affect
38 PGE's qualifications or expertise. The Council finds that the proposed amendment meets section
39 (1) of the standard.

40
41 Section (2) of the standard does not apply because PGE did not take credit for any ISO program.

42
43 Sections (3) and (4) of the standard address third party permits (permits that the certificate holder
44 will not obtain directly but rely on a third party). No permits of EFSC or any other agency are
45 affected by the use of additional temporary laydown area.

46
47

1 **A. Council Standards in OAR Chapter 345 Division 22**

2 **1. Organizational Expertise OAR 345-022-0010**

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

13 *(2) The Council may base its findings under section (1) on a rebuttable presumption that an*
14 *applicant has organizational, managerial and technical expertise, if the applicant has an ISO*
15 *9000 or ISO 14000 certified program and proposes to design, construct and operate the facility*
16 *according to that program.*

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

24 *(4) If the applicant relies on a permit or approval issued to a third party and the third party*
25 *does not have the necessary permit or approval at the time the Council issues the site certificate,*
26 *the Council may issue the site certificate subject to the condition that the certificate holder shall*
27 *not commence construction or operation as appropriate until the third party has obtained the*
28 *necessary permit or approval and the applicant has a contract or other arrangement for access to*
29 *the resource or service secured by that permit or approval.*

30
31 **Discussion**

32
33 The standard is written in four sections. Section (1) addresses the certificate holder's qualifications
34 to construct, operate and retire the facility in compliance with applicable regulations and conditions
35 of the site certificate. In its Final Order approving the PWGP Site Certificate, the Council found
36 that PGE had the required organizational expertise. The Council affirmed this finding in its orders
37 approving amendments 1 through 3. The use of additional temporary laydown area does not affect
38 PGE's qualifications or expertise. The Council finds that the proposed amendment meets section
39 (1) of the standard.

40
41 Section (2) of the standard does not apply because PGE did not take credit for any ISO program.

42
43 Sections (3) and (4) of the standard address third party permits (permits that the certificate holder
44 will not obtain directly but rely on a third party). No permits of EFSC or any other agency are
45 affected by the use of additional temporary laydown area.

46
47

1 **Conclusion**

2 The Council finds that the proposed amendment complies with the Organizational Expertise
3 Standard. No new conditions are required.
4

5 **2. Structural Standard OAR 345-022-0020**

6 To issue the amendment, the Council must find that:

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

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

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

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

20 **Discussion**

21 In its Final Order approving the PWGP Site Certificate, the Council found that the project satisfies
22 the Structural Standard. The temporary laydown area requested is adjacent to the current energy
23 facility site and within the study area for this standard. Therefore all prior findings regarding
24 seismic hazard apply equally to the requested laydown area. Moreover, PGE proposes to use the
25 additional land only as temporary laydown area and does not propose to construct any structures
26 on it. Nothing in the proposed amendment alters the basis for the Council's previous findings of
27 compliance with the standard.

28 **Conclusion**

29
30 The Council finds that the proposed amendment complies with the Structural Standard. No new
31 conditions are required.
32

33 **3. Soil Standard OAR 345-022-0022**

34 To issue the amendment, the Council must find that

35 ****the design, construction, operation and retirement of the facility, taking into account*
36 *mitigation, are not likely to result in a significant adverse impact to soils including, but not limited*
37 *to, erosion and chemical factors such as salt deposition from cooling towers, land application of*
38 *liquid effluent, and chemical spills.*

39 In the Final Order approving the PWGP site certificate, the Council found that the construction and
40 operation of the project was not likely to have a significant adverse impact on soils, based on certain
41 conditions. The Council affirmed this finding in approving amendment #3, which included some
42 temporary laydown area. The additional laydown areas proposed in this fourth amendment request
43 are adjacent to the existing energy facility site and in some cases surrounded on two or more sides
44 by the existing site. Therefore, the Council's previous findings extend equally to these new

1 temporary laydown areas.

2 Conditions D.6(1) to D.6(6) of the Site Certificate require PGE to employ soil erosion and sediment
3 runoff control measures during any soil disturbing activities, use native seed mixes to restore
4 vegetation to the extent practicable and landscape disturbed portions of the site upon completion of
5 soil disturbing activities. These conditions will apply to any new laydown area described in this
6 amendment, and are sufficient to regulate soil impacts of the additional laydown area. No soil
7 protection conditions beyond those already set forth in the Site Certificate are necessary.

8 **Conclusion**

9
10 The Council finds that the proposed amendment complies with the Soil Protection Standard. No
11 new conditions are required.
12

13 **4. Land Use Standard OAR 345-0222-0030**

14 To issue the amendment to the site certificate, the Council must find that:

15
16 *ORS 469.503(4) the facility complies with the statewide planning goals adopted by the Land*
17 *Conservation and Development Commission.*

18 *ORS 469.504(1) A proposed facility shall be found in compliance with the statewide*
19 *planning goals under ORS 469.503(4) if:*

20 ***

21 *(b) The council determines that:*

22 *(A) The proposed facility complies with applicable substantive criteria from the affected*
23 *local government's acknowledged comprehensive plan and land use regulations that are required*
24 *by the statewide planning goals and in effect on the date the application is submitted, and with*
25 *any Land Conservation and Development Commission administrative rules and goals and any*
26 *land use statutes directly applicable to the facility under ORS 197.646(3)***.*

27

28 **Discussion**

29

30 In the Final Order approving the PWGP site certificate, the Council found that the project complied
31 with all applicable substantive criteria from Columbia County's comprehensive plan and zoning
32 ordinance, and with LDCD rules applicable under ORS 197.646.
33

34 In its January 28, 2005 order approving amendment #3 to the site certificate, the Council found that
35 6.3 acres of temporary laydown area included in that amendment were located within the Resource
36 Industrial Planned Development (RIPD) zone in Columbia County, as is the original energy facility
37 site. The laydown area requested in this Request for Amendment #4 is adjacent to the original
38 energy facility site or to laydown area previously approved in Amendment #3, and is in the same
39 zone. In some cases, the new laydown area is bordered on two or more sides by land that was
40 previously approved. Therefore, the Council's prior findings of compliance with the applicable
41 substantive criteria from Columbia County's comprehensive land use plan apply equally to the new
42 laydown area. Nothing in this additional laydown area would alter those findings of compliance.
43 Any conditions previously imposed to ensure compliance with county land use criteria will apply to
44 the new laydown area as well.
45

1 **Conclusion**

2
3 The Council finds that the proposed amendment complies with its Land Use Standard. No new
4 conditions are required.
5

6 **5. Protected Area Standard OAR 345-022-0040**

7 To issue the amendment, the Council must find that "...the design, construction and operation of the
8 facility are not likely to result in significant adverse impact ..." to listed protected areas.

9 **Discussion**

10
11 In the Final Order approving the PWGP project, the Council concluded that all of the listed
12 Protected Areas are two miles or more from the energy facility site, and no elements of the energy
13 facility would be located within any Protected Area. The Council reaffirmed these findings in its
14 January 28, 2005 order approving amendment #3. Because the expanded laydown and staging area
15 will be temporary and will be located immediately adjacent to the energy facility site, these findings
16 continue to apply. The expansion of temporary laydown areas does not necessitate the addition of
17 any conditions of approval to maintain compliance with the Protected Areas standard.

18 **Conclusion**

19
20 The Council finds that the proposed amendment complies with the Protected Area Standard. No
21 new conditions are required.
22

23 **6. Financial Assurance and Retirement Standards OAR 345-022-0050**

24 To issue the amendment, the Council must find that:

25
26 *(1) The site, taking into account mitigation, can be restored adequately to a useful,*
27 *non-hazardous condition following permanent cessation of construction or operation of*
28 *the facility.*

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

32 **Discussion**

33
34 In its January 28, 2005 order approving amendment #3, the Council reduced the amount of the
35 surety required under section (2) of this standard, and found that PGE had a reasonable likelihood of
36 obtaining the required bond or letter of credit. Because the project is currently under construction,
37 PGE provided the required surety in the form of a letter of credit, and remains in compliance with
38 all conditions related to this standard.
39

40 The requested laydown area would not add to the amount required to retire the site after the end of
41 the facility's useful life, because PGE must restore temporary laydown areas once construction is
42 complete. Even if PGE were to halt construction before completing the project, the cost of restoring
43 and reseedling 6.08 acres of temporary laydown area is a small fraction of site restoration cost, and
44 does not alter the estimate of retirement cost that formed the basis for approval of amendment #3.
45 Therefore, the addition of this temporary laydown area does not alter Council's previous findings of
46 compliance with the standard or create the need for new or changed conditions.
47

1 **Conclusion**

2
3 The proposed amendment does not affect PGE's ability to meet the Financial Assurance and
4 Retirement standard. The Council finds that the proposed amendment meets its Retirement and
5 Financial Assurance Standard.
6

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

8 To issue the amendment, the Council must find that:

9 *“***the design, construction, operation and retirement of the facility, taking into*
10 *account mitigation, are consistent with the fish and wildlife habitat mitigation goals and*
11 *standards of OAR 635-415-0025 in effect as of September 1, 2000.”*

12
13 **Discussion**

14
15 In its Final Order approving amendment #3, the Council found that the additional construction and
16 laydown area covered in that amendment was consistent with the fish and wildlife habitat mitigation
17 goals and standards of OAR 635-415-0025. The 6.08 acres of laydown area requested in
18 amendment #4 is adjacent to those previously approved areas, and in some cases is surrounded on
19 two or more sides by previously approved construction areas. The new laydown area requested is
20 within the analysis area for fish and wildlife impacts for the site certificate or previous amendments,
21 and is located in Habitat Category 4. The Department of State Lands commented on the
22 amendment request and said that the amendment creates no new wetland concerns. All current
23 conditions under the Fish and Wildlife Habitat Standard would apply to the new laydown areas.
24 Therefore, the additional laydown area requested in amendment #4 does not alter Council's
25 previous findings of compliance with its Fish and Wildlife Habitat standard.
26

27 **Conclusion**

28
29 The Council finds that the proposed amendment complies with the Fish and Wildlife Habitat
30 Standard. No new conditions are required.
31

32 **8. Threatened and Endangered Species Standard OAR 345-022-0070**

33 To issue the amendment, the Council must find that:

34
35 *“(1) For plant species that the Oregon Department of Agriculture has listed as*
36 *threatened or endangered under ORS 564.105(2), the design, construction, operation*
37 *and retirement of the proposed facility, taking into account mitigation:*

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

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

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

In its Final Order approving amendment #3, the Council found that:

“*** 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.”

The additional laydown area requested in amendment #4 is adjacent to and in some cases surrounded on two or more sides by previously approved construction or laydown areas. It is not in an area identified as Columbia white-tailed deer habitat. And in any case, all conditions to restore and reseed temporary laydown area will apply to the new areas proposed in this amendment, so that any effects would be temporary. Therefore the proposed amendment does not affect the Council’s prior findings of compliance with the standard.

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Conclusion

The Council finds that the proposed amendment complies with its Threatened and Endangered Species Standard. No new conditions are required.

9. Scenic and Aesthetic Values Standard OAR 345-022-0080

To issue the amendment, the Council must find that:

“(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.

(2) The Council may issue a site certificate for a special criteria facility under OAR 345-015-0310 without making the findings described in section (1). However, the Council may apply the requirements of section (1) to impose conditions on a site certificate issued for such a facility.”

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Discussion

In the Final Order approving amendment #3, the Council found that the PWGP project had no adverse effect on scenic or aesthetic resources identified in local land use plans. The additional temporary laydown area requested in amendment #4 is adjacent to the existing site and would not add any visual impact. Columbia County has not added any new scenic or aesthetic resources to its inventory within the analysis area for the facility. Conditions requiring PGE to restore and reseed temporary construction laydown areas will apply to the new areas covered in this amendment. Therefore the proposed amendment does not affect the Council’s prior findings of compliance.

1 **Conclusion**

2
3 The Council finds that the proposed amendment complies with its Scenic and Aesthetic Values
4 Standard. No new conditions are required.
5

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

7 To issue the amendment, the Council must find that:

8
9 *“*** the construction, operation and retirement of the facility, taking into account*
10 *mitigation, are not likely to result in significant adverse impacts to:*

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

13 *(b) For a facility on private land, archaeological objects, as defined in ORS*
14 *358.905(1)(a), or archaeological sites, as defined in ORS 358.905(1)(c); and*

15 *(c) For a facility on public land, archaeological sites, as defined in ORS*
16 *358.905(1)(c).”*

17 **Discussion**

18 In its Final Order approving amendment #3, the Council found that:

19
20 *“***The new laydown area, northwest of the energy facility site, will not involve any*
21 *disturbance to the subsurface. Similarly, the spoils disposal area would be used for disposal*
22 *of excess soil from construction. No excavation would occur that could disturb subsurface*
23 *cultural or archaeological resources, if present.”*

24
25 The additional laydown area requested in amendment #4 is adjacent to construction and laydown
26 areas previously approved. Since this amendment request only proposes temporary laydown areas,
27 no excavation would occur. Much of the proposed laydown area is already disturbed by previous
28 construction by the Port of St. Helens. All site certificate conditions previously imposed under the
29 Historic, Cultural and Archeological Resources standard on laydown areas approved in the site
30 certificate or prior amendments will apply equally to the areas affected by this amendment.
31

32 In Ordinance No. 2003-6, Columbia County adopted a new inventory of significant historical sites
33 as part of Article XI of the County’s Comprehensive Plan. In addition, the Ordinance includes the
34 results of the “Columbia County Intensive-Level Historic Survey,” which includes the inventoried
35 sites as well as others determined not to be significant. The expanded laydown and staging area
36 would not affect any historic resources identified in Article XI or in the broader survey.
37

38 **Conclusion**

39
40 The Council finds that the proposed amendment complies with its Historic, Cultural and
41 Archeological Resources Standard. No new conditions are required.
42

43 **11. Recreational Standard OAR 345-022-0100**

44 To issue the amendment, the Council must find that:
45

1 **13. Waste Minimization Standard OAR 345-022-0120**

2 To issue the amendment, the Council must find that:

3
4 *“(a) The applicant’s solid waste and wastewater plans are likely to minimize*
5 *generation of solid waste and wastewater in the construction, operation, and retirement*
6 *of the facility, and when solid waste or wastewater is generated, to result in recycling*
7 *and reuse of such wastes;*

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

11
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13 **Discussion**

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15 In its Final Order approving the Site Certificate, the Council imposed conditions to ensure
16 compliance with the waste minimization standard. The proposed amendment will not alter PGE’s
17 solid waste and wastewater generation and disposal plans. Therefore, the Council’s original
18 findings are sufficient to demonstrate compliance with the Waste Minimization standard, and no
19 additional conditions are necessary to maintain compliance.

20
21 **Conclusion**

22
23 The Council finds that the proposed amendment complies with its Waste Minimization Standard.
24 No new conditions are required.

25
26 **B. Public Health and Safety ORS 469.401(2)**

27
28 In the Final Order approving the Site Certificate, the Council considered safety factors and imposed
29 conditions that cover construction and placement of the transmission lines and do not relate to
30 temporary laydown and staging areas. The expanded laydown areas proposed in amendment #4 are
31 adjacent to laydown areas previously approved, and would be used in the same way. Therefore the
32 proposed amendment does not affect any prior Council findings regarding public health and safety,
33 and no new conditions are required.

34
35 **C. Requirements of Agencies Other than EFSC**

36
37 In connection with the PWGP, PGE holds a WPCF permit from the Department of Environmental
38 Quality (DEQ) for wastewater discharge and a removal/fill (wetlands) permit from Department of
39 State Lands (DSL). The PWGP project also complies with DEQ noise standards.

40
41 The addition of temporary laydown areas adjacent to the existing site does not affect the WPCF
42 permit. Similarly, the addition of temporary laydown area does not change any of the projects noise
43 characteristics and does not affect compliance with noise standards.

44
45 The expanded laydown and staging area is not within delineated wetlands, although the additional
46 laydown and staging area located adjacent to the access road into the energy facility site does abut
47 Wetland Area 4 as identified on Figure J-3.1 of the ASC (March 2002). However, Condition

1 E.1.b(3) of the Site Certificate, added pursuant to the Council's Final Order of January 28, 2005,
2 addresses this issue by requiring as follows:

3
4 "The Certificate Holder shall clearly stake the wetland boundary adjacent to the spoils
5 disposal area and the wetland number 4 boundary adjacent to the construction
6 laydown/staging areas in the vicinity of the energy facility prior to any ground disturbing
7 activity in the spoils disposal area or in the construction laydown/staging areas in the
8 vicinity of the energy facility, and shall maintain the staking until all ground-disturbing
9 activities in the spoils disposal area and in the construction laydown/staging areas in the
10 vicinity of the energy facility have been completed. The Certificate Holder shall instruct
11 all contractors disposing of soil in the spoils disposal area and using the construction
12 laydown/staging areas in the vicinity of the energy facility about the purpose of the
13 staking and shall require them to avoid any impact to the wetlands." (Emphasis added).

14 In addition, the DSL Resource Coordinator reviewed the amendment request and commented that
15 DSL required no additional conditions. The Council finds that no additional conditions are
16 required to ensure compliance with standards of other agencies.

17 18 **D. Carbon Dioxide Standards at OAR 345 Division 24**

19 The PWGP complies with Council's Standards for carbon dioxide emissions. The addition of
20 temporary laydown area does not alter carbon dioxide emissions in any way and does not require
21 new or different conditions.

22 23 **V. TEMPORARY ORDER AND SITE CERTIFICATE AMENDMENTS**

24 The Council finds that the changes to the facility proposed in PGE's Request for Fourth
25 Amendment meet the Council's standards. Section C.1.a of the Site Certificate may be changed as
26 requested by PGE and as shown in section III.C of this Order.

27
28 The Department also recommends that the Site Certificate reference Figure B-2 rev.1, which PGE
29 submitted with the amendment request, by amending Section C.1.a on p. 10 as follows:

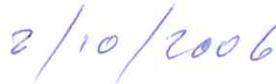
30
31 Temporary Construction Staging and Laydown Areas. A temporary Temporary
32 construction staging and laydown area of 6.3 areas totaling approximately 12.4 acres will be
33 located northwest of around the energy facility, within the 852-acre parcel leased to PGE by
34 the Port of St. Helens and situated within Sections 15 and 16, Township 8 North, Range 4
35 West, Willamette Meridian. Construction laydown and staging areas are as depicted on
36 Figure B-2 rev.1 as submitted with the Request for Fourth Amendment on January 18, 2006.

37
38 With this change, Council approves PGE's Request for Fourth Amendment.

39
40 Issued this day of February 10, 2006

41
ENERGY FACILITY SITING COUNCIL


Hans Neukomm, Chair


date

