BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON

In the Matter of the Eighth Request to Amend
the Site Certificate for the Port Westward
Generating Project

ORDER APPROVING
AMENDMENT #8

ENERGY FACILITY SITING COUNCIL

August 19, 2011
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PORT WESTWARD GENERATING PROJECT
FINAL ORDER ON AMENDMENT #8

I. INTRODUCTION

The Oregon Energy Facility Siting Council (EFSC or “the Council”) issues this order in accordance with ORS 469.405 and OAR 345-027-0070. This order addresses a request by Portland General Electric Company (PGE) for Amendment #8 to its site certificate for the Port Westward Generating Project (PWGP). The Port Westward Generating Project is a 650-megawatt generating plant comprised of an existing natural gas-fired combined cycle base load generating facility, with power augmentation and a proposed non-base load flexible peaking, load-following and renewable energy integration generating facility, located about 4.5 miles north of Clatskanie, Oregon.

In its request for Amendment #8, PGE requests extension by 24 months the deadline for completion of construction of Unit 2.

The Council issued the Final Order for the PWGP on November 8, 2002. Final Orders were issued by the Council on the following Amendments:

- Amendment #1 on December 5, 2003
- Amendment #2 on September 24, 2004
- Amendment #3 on January 28, 2005
- Amendment #4 on May 19, 2006
- Amendment #5 on September 29, 2006
- Amendment #6 on February 23, 2009, and
- Amendment #7 on January 13, 2010

This Final Order is for PGE’s current request for amendment of its site certificate, Amendment #8.

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

II. PROCEDURAL HISTORY AND AMENDMENT PROCESS

On November 8, 2010, PGE submitted to the Department a request for amendment of the site certificate (Amendment #8). On November 22, 2010, the Department sent copies of the amendment request to the reviewing agencies. The Department requested agency comments by December 14, 2010. The Department received no substantive comments from reviewing agencies.

1 Certificate Holder’s Request for Eighth Amendment to the Site Certificate for the Port Westward Generating Project.
On November 22, 2010, the Department sent notice of the amendment request to all persons on the Council’s general mailing list, to persons on the mailing list established for the facility, and to an updated list of property owners supplied by the certificate holder. The Department requested public comments by December 14, 2010. The Department received one public comment related to changes in the site boundary made in a prior amendment of the site certificate.

The Department issued a Draft Proposed Order on January 5, 2011. On the same day, the Department issued a notice of the draft proposed order in accordance with OAR 345-027-0070 specifying a February 4, 2011 deadline for public comments.

The Department received a written comment from the Columbia County Board of Commissioners, originally dated January 26, 2011 and replaced by a revised comment letter of March 2, 2011. This letter confirms that a traffic impact study was received from PGE but notes that “PGE and County continue to discuss the applicable parameters for the analysis.” In the letter Columbia County also proposes revised language for Condition D.13(2) intended to ensure timely completion of traffic mitigation requirements. Further discussions between PGE and Columbia County, as well as separate conversations between Department staff and representatives of PGE and Columbia County resulted in the development of the revised language for Condition D.13(2) presented in Section IV.C(2) of this Proposed Order.

The Department issued a proposed order on June 9, 2011. On the same day, the Department issued a notice of the proposed order in accordance with OAR 345-027-0070 specifying a July 9, 2011 deadline for public comments and requests for a contested case proceeding. No comments were received prior to this deadline.

On August 19, 2011 the Council took action on the amendment request during its regular meeting in Maupin, Oregon.

III. DESCRIPTION OF THE PROPOSED AMENDMENT

PGE requests an amendment to the site certificate to extend by 24 months the deadline for completing construction of Unit 2 of the PWGP. If approved, the amendment would extend the deadline for completing construction from May 8, 2011, to May 8, 2013.

In its amendment request, PGE explained the reason for the request as follows:

The Certificate Holder has been involved in a required regulatory process before the Oregon Public Utilities Commission ("OPUC") for review and acknowledgment of its integrated resource plan (IRP). On October 15, 2010, the staff of the OPUC issued its recommendations on PGE’s IRP. PGE expects the Commission to acknowledge the plan in 2010. Included in PGE’s IRP is an identified need for up to 200 MW of flexible capacity resources. PGE’s IRP identifies Unit 2 as a self-build alternative for satisfying that need. The requested extension of the deadline for completing construction will allow adequate time, after the OPUC acknowledges PGE’s IRP, for contracting, and ordering of equipment before the Certificate Holder would have to begin construction of Unit 2.
It should be noted that the Oregon Public Utility Commission (OPUC) did acknowledge the aforementioned Integrated Resource Plan while this amendment was undergoing review.

A. Amendment Procedure

OAR 345-027-0030, sets out the requirements for a certificate holder to request an extension of the deadlines for beginning and completing construction.²

OAR 345-027-0030
Amendment to Extend Construction Beginning and Completion Deadlines

(1) The certificate holder may request an amendment to extend the deadlines for beginning or completing construction of the facility that the Council has specified in a site certificate or an amended site certificate. The certificate holder shall submit a request that conforms to the requirements of 345-027-0060 no later than six months before the date of the applicable deadline, or, if the certificate holder demonstrates good cause for the delay in submitting the request, no later than the applicable deadline.

(2) A request within the time allowed in section (1) to extend the deadlines for beginning or completing construction suspends those deadlines until the Council acts on the request.

(3) The Council shall review the request for amendment as described in OAR 345-027-0070.

(4) If the Council grants an amendment under this rule, the Council shall specify new deadlines for beginning or completing construction that are not more than two years from the deadlines in effect before the Council grants the amendment.

(5) To grant an amendment extending the deadline for beginning or completing construction of an energy facility subject to OAR 345-024-0550, 345-024-0590, or 345-024-0620, the Council must find that the facility complies with the carbon dioxide standard in effect at the time of the Council's order on the amendment.

Pursuant to these rules, the Council may grant an extension of no more than two years from the current deadlines. The Council rule requires the certificate holder to submit the request "no later than six months before the date of the applicable deadline, or, if the certificate holder demonstrates good cause for the delay in submitting the request, no later than the applicable

² The Council amended OAR 345-027-0030, effective May 15, 2007, after the site certificate became effective and before the request to amend the site certificate to extend the date of completing construction was submitted. OAR 345-027-0030(5) codifies the Council's application of updated carbon dioxide standard requirements when reviewing applications to amend site certificates to extend the deadline for construction. The amended rule rephrased section (5), but the substance of that section has been part of the Council's rules since 1999.
deadline.” Under the current site certificate, the deadline to complete construction of the PWGP is May 8, 2011 (Condition F.1.(6)).

PGE submitted its request to extend the deadline for completing construction on November 4, 2010, six months before the deadline. The Council finds that the request to extend the construction deadline was filed in a timely manner.

OAR 345-027-0070(10) provides:
In making a decision to grant or deny issuance of an amended site certificate, the Council shall apply the applicable substantive criteria, as described in OAR 345-022-0030, in effect on the date the certificate holder submitted the request for amendment and all other state statutes, administrative rules, and local government ordinances in effect on the date the Council makes its decision.

Under OAR 345-027-0070(10)(b), for an amendment that extends the deadlines for beginning or completing construction, the Council must consider:

“(A) Whether the Council has previously granted an extension of the deadline.”

When it approved Amendment #2 to the Site Certificate, the Council granted an extension of the deadline for completing construction of the PWGP. Amendment #2 extended the deadline for beginning construction from November 8, 2004 to November 8, 2006, and it extended the deadline for completing construction from May 8, 2007 to May 8, 2009.

After the Council’s approval of Amendment #2, PGE began and completed construction of Unit 1 of the PWGP in a timely manner. Unit 1 of the PWGP includes related or supporting facilities that are intended to serve both Unit 1 and Unit 2 of the PWGP.

The Council approved Amendment #6 to the Site Certificate on February 23, 2009 to extend the construction completion deadline of Unit 2 of the PWGP from May 8, 2009 to May 8, 2011. The extension was given to provide sufficient time for the Certificate Holder to seek an amendment to the Site Certificate (Amendment #7) to reconfigure Unit 2. Amendment #7 to the Site Certificate was approved on January 13, 2010.

The Council’s Order approving Amendment #7 authorized the configuration of Unit 2 as a non-based load power plant with an option of either of multiple reciprocating engine-generator sets or aeroderivative combustion turbine generators, or both, along with associated equipment, with a combined nominal generating capacity of up to 200 megawatts (MW).

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5 Condition F.1.(6) states: “The Certificate Holder shall begin construction of the facility by May 8, 2011. The completion of construction date is the day by which (1) the facility is substantially complete as defined by the Certificate Holder’s construction contract documents; (2) acceptance testing is satisfactorily completed; and, (3) the energy facility is ready to commence continuous operation consistent with the Site Certificate....”
The Councils find that it has granted two extensions of the deadline for beginning and
completing construction of the PWGP and that a third extension of the deadline for completing
construction of the PWGP under the conditions outlined by PGE would be reasonable.

“(B) Whether there has been any change of circumstances that affects a previous Council
finding that was required for issuance of a site certificate or amended site certificate.”

Based on the findings discussed under Sections IV and V below, the Council finds that
there has not been any change of circumstances that affects a previous Council finding that was
required for issuance of a site certificate or amended site certificate.

“(C) Whether the facility complies with all Council standards...”

In Sections IV and V below, we discuss compliance of the facility with all Council
standards, as required under OAR 345-027-0070(10).

B. Amendments to the Site Certificate as Proposed by PGE

PGE proposes the following amendments to conditions included in the Seventh Amended
Site Certificate for the PWGP. Proposed additions are shown in double-underlined bold typeface
and proposed deletions have a strikethrough.

F.1. Mandatory Conditions in Site Certificates

Beginning and Completing Construction

(6) The Certificate Holder shall complete construction of the facility by May 8,
2014. The completion of construction date is the day by which (1) the facility
is substantially complete as defined in the Certificate Holder's construction
contract documents; (2) acceptance testing is satisfactorily completed; and, (3)
the energy facility is ready to commence continuous operation consistent with the
Site Certificate. Completion of construction of the Port Westward to BPA Allston
Substation Transmission Line separately shall not satisfy this requirement.
[Amendment Nos. 2, 2.6 & 68]

C. Amendments to the Site Certificate as Proposed by Columbia County

Columbia County proposed the following amendments to conditions included in the
Certificate Holder’s Request for the Eighth Amendment to the Site Certificate for the Port
Westward Generating Project in a March 2, 2011 comment letter. Proposed additions are shown
in double-underlined bold typeface and proposed deletions have a strikethrough.

D.13 Public Services

(2) The Certificate Holder shall use reasonable efforts to enter into an Amended
Traffic Improvement Agreement with Columbia County, based on the
conduct a new Traffic Impact Analysis Study for the second power generation
unit performed according to parameters agreed to by Columbia County and the Certificate Holder, within 6 12 months from the date of issuance of Amendment 7 8 to PGE's Site Certificate. Until the Amended Traffic Improvement Agreement is executed, the County shall not issue any construction permits for the second power generation unit, and The Certificate Holder shall also enter into an Amended Traffic Improvement Agreement and pay a new Traffic Improvement Contribution to Columbia County according to the Amended Traffic Improvement Agreement and consistent with a new Traffic Impact Analysis Study.

IV. THE COUNCIL'S SITING STANDARDS

The Council must decide whether the amendment complies with the facility siting standards adopted by the Council. In addition, the Council must impose conditions for the protection of the public health and safety, for the time of commencement and completion of construction, and for ensuring compliance with the standards, statutes and rules addressed in the project order. ORS 469.401(2).

The Council is not authorized to determine compliance with regulatory programs that have been delegated to another state agency by the federal government. ORS 469.503(3). Nevertheless, the Council may consider these programs in the context of its own standards to ensure public health and safety, resource efficiency, and protection of the environment.

The Council has no jurisdiction over design or operational issues that do not relate to siting, such as matters relating to employee health and safety, building code compliance, wage and hour or other labor regulations, or local government fees and charges. ORS 469.401(4).

In making its decision on an amendment of a site certificate, the Council applies the applicable state statutes, administrative rules and local government ordinances that are in effect on the date the Council makes its decision, except when applying the Land Use standard. In making findings on the Land Use standard, the Council applies the applicable substantive criteria in effect on the date the certificate holder submitted the request for amendment. OAR 345-027-0070(9).

A. General Standard of Review OAR 345-022-0000

(i) To issue a site certificate for a proposed facility or to amend a site certificate, the Council shall determine that the preponderance of evidence on the record supports the following conclusions:

(a) The facility complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619, and the standards adopted by the Council pursuant to ORS 469.501 or the overall public benefits of the facility outweigh the damage to the resources protected by the standards the facility does not meet as described in section (2);

(b) Except as provided in OAR 345-022-0030 for land use compliance and except for those statutes and rules for which the decision on compliance has been delegated by
the federal government to a state agency other than the Council, the facility complies
with all other Oregon statutes and administrative rules identified in the project order, as
amended, as applicable to the issuance of a site certificate for the proposed facility. If the
Council finds that applicable Oregon statutes and rules, other than those involving
federally delegated programs, would impose conflicting requirements, the Council shall
resolve the conflict consistent with the public interest. In resolving the conflict, the
Council cannot waive any applicable state statute.

The requirements of OAR 345-022-0000 are discussed in the sections that follow.
Applicable statutes and rules of agencies other than EFSC are discussed below, in section V.A of
this order. The proposed amendment does not affect any permits issued by agencies other than
the Council.

B. Standards Regarding the Applicant

1. Organizational Expertise 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.

(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.

(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.

(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 first two sections of the Organizational Standard require that the certificate holder
demonstrate its ability to construct, operate and retire the facility in accordance with Council
standards and the terms of the site certificate. PGE has proposed no change to the site, the
facility, or its construction or operation. We address retirement below, in the discussion of the

Sections 3 and 4 of the standard address permits for which the applicant will rely on a
permit or approval issued to a third party. PGE has proposed no change to the site, the facility, or
its construction or operation that would rely on a permit or approval issued to a third party.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in the Final Orders are sufficient to demonstrate
compliance with the Organizational Expertise standard.

Conclusion
The Council finds that the applicant would meet the Council’s Organizational Expertise
standard if Amendment #8 were approved.

2. Retirement and Financial Assurance 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 for the Port Westward Generating Project, dated
November 8, 2002, the Council found that the applicant demonstrated that it could adequately
restore the site to a useful, non-hazardous condition following facility retirement. The Council
imposed 15 site certificate conditions in section D.3 of the site certificate to ensure compliance
with the Retirement and Financial Assurance standard. The conditions of approval were
amended by the Council in the Orders approving Amendments 1 and 3. The extension of the
deadline to complete construction does not affect the Council’s findings that the construction and
operation of the facility will comply with the Retirement and Financial Assurance standard.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in the Final Orders are sufficient to demonstrate
compliance with the Retirement and Financial Assurance standard.
Conclusion
The Council finds that the PWGP would meet the Council’s Retirement and Financial Assurance standard if Amendment #8 were approved.

C. Standards about the Impacts of Construction and Operation

1. Land Use 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).

(3) As used in this rule, the “applicable substantive criteria” are criteria from the affected local government’s acknowledged comprehensive plan and land use ordinances that are required by the statewide planning goals and that are in effect on the date the applicant submits the application. If the special advisory group recommends applicable substantive criteria, as described under OAR 345-021-0050, the Council shall apply them. If the special advisory group does not recommend applicable substantive criteria, the Council shall decide either to make its own determination of the applicable substantive criteria and apply them or to evaluate the proposed facility against the statewide planning goals.

(4) The Council may find goal compliance for a proposed facility that does not otherwise comply with one or more statewide planning goals by taking an exception to the applicable goal. Notwithstanding the requirements of ORS 197.732, the statewide planning goal pertaining to the exception process or any rules of the Land Conservation
and Development Commission pertaining to the exception process, the Council may take
an exception to a goal if the Council finds:

(a) The land subject to the exception is physically developed to the extent that the
land is no longer available for uses allowed by the applicable goal;
(b) The land subject to the exception is irrevocably committed as described by the
rules of the Land Conservation and Development Commission to uses not allowed
by the applicable goal because existing adjacent uses and other relevant factors
make uses allowed by the applicable goal impracticable; or
(c) The following standards are met:
   (A) Reasons justify why the state policy embodied in the applicable goal
   should not apply;
   (B) The significant environmental, economic, social and energy
   consequences anticipated as a result of the proposed facility have been
   identified and adverse impacts will be mitigated in accordance with rules
   of the Council applicable to the siting of the proposed facility; and
   (C) The proposed facility is compatible with other adjacent uses or will be
   made compatible through measures designed to reduce adverse impacts.

Discussion
In section D.4 of the Final Order for the Port Westward Generating Project, dated
November 8, 2002, the Council found that the applicant demonstrated compliance with the Land
Use standard. The Council imposed 5 site certificate conditions in section D.4 of the site
certificate to ensure compliance with the Land Use standard. The Council’s Final Order for the
PWGP Amendment # 2, dated September 24, 2004, Amendment # 6 dated March 27, 2009 and
Amendment # 7 dated March 12, 2010 addressed changes in applicable land use provisions since
issuance of the PWGP Site Certificate on November 8, 2002. Since that decision, Columbia
County and the City of Rainier have amended some of their land use provisions. Additionally,
Columbia County revised their Columbia County Zoning Ordinance §1100 Flood Hazard
Overlay. These changes and amendments do not affect any of the Council’s prior findings with
respect to PGE’s ability to comply with the Land Use standard.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in previous Final Orders are sufficient to
demonstrate compliance with the Land Use standard.

Conclusion
The Council finds that the PWGP would comply with the Council’s Land Use standard if
Amendment #8 were approved.

2. Public Services 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

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 Council’s final order of March 12, 2010, approving Amendment No. 7, amended Condition D.13 (2) to require that the Certificate holder complete a new Traffic Improvement Agreement and pay a new Traffic Improvement Contribution to Columbia County. A Traffic Impact Analysis Study, “performed according to parameters agreed to by Columbia County and the Certificate Holder,” is also required as a basis for the Traffic Improvement Agreement and Traffic Contribution. Although PGE submitted a traffic impact analysis to Columbia County in May 2010, PGE and the County continue to negotiate the applicable parameters for the study.

A March 2, 2011 comment letter from Columbia County (which replaced an earlier comment letter dated January 26, 2011) proposed revised language for Condition D.13(2). The proposed language was intended to address the County’s concern with the enforceability of a six month deadline for execution of the Traffic Improvement Agreement, since a similar six month deadline from the issuance of the Seventh Amended Site Certificate had passed with no agreement in place.

Through separate conversations with Columbia County and PGE, Department staff gathered feedback and prepared revised language for Condition D.13(2). The revised condition proposed by the Department facilitates the timely completion of traffic improvements (maintaining this requirement from the previous site certificate), while allowing PGE and Columbia County to finalize details of the Traffic Improvement Agreement outside of the EFSC process. In order to more clearly link traffic improvements to the construction activity that necessitates them, the Department also proposes requiring the agreement to be entered into prior to application for building permits, rather than six months from the date of issuance of the Eighth Amended Site Certificate.

The Council concurs with the Department’s proposed text and amends Condition D.13(2) as follows:

Prior to applying for construction permits for the second power generation unit, the Certificate Holder shall conduct a new Traffic Impact Analysis Study according to parameters agreed to by Columbia County and the Certificate Holder within 6 months from the date of issuance of Amendment to PGE’s Site Certificate, and shall enter into an Amended Traffic Improvement Agreement and pay a new Traffic Improvement Contribution to Columbia County according to the Amended Traffic Improvement Agreement and consistent with the new Traffic Impact Analysis Study for the second power generation unit performed according to parameters agreed to by Columbia County and the Certificate Holder.

The Department discussed this recommended language with staff from Columbia County and PGE by email in May 2011. Neither party filed further comments on the subsequent Proposed Order, which contained the Department’s recommended language. The extension of the deadline to complete construction does not affect the Council’s findings that the construction and operation of the facility will be consistent with the Public PORT WESTWARD GENERATING PROJECT FINAL ORDER ON AMENDMENT #8 – August 19, 2011
Services Standard. Because PGE has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in the previous Final Orders are sufficient to demonstrate compliance with the Public Services standard, subject to the revised Condition D.13(2) contained in this order.

Conclusion

The Council finds that the extension of the deadline to complete construction and operations meets the requirements of OAR 345-022-0110, subject to the revised Condition D.13(2) contained in this order.

3. Waste Minimization 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 and operation of the facility, and when solid waste or wastewater is generated, to result in recycling and reuse of such wastes;

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

Discussion

The Waste Minimization standard was addressed in Section D.14 of the Final Order of November 8, 2002. The Council imposed five conditions in section D.14 of the Site Certificate to ensure compliance with the Waste Minimization standard. The extension of the deadline to complete construction does not affect the Council’s findings that the construction and operation of the facility will be consistent with the Waste Minimization Standard.

Because PGE has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in previous Final Orders are sufficient to demonstrate compliance with the Waste Minimization standard.

Conclusion

The Council finds that the PWGP would comply with the Waste Minimization standard if Amendment #8 were approved.

4. 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 Maximum Considered Earthquake Ground Motion identified at International Building Code (2003 edition) Section 1615 and maximum probable ground motion, taking into account ground failure and amplification for the site specific soil profile under 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 maximum probable ground motion events. As used in this rule, "seismic hazard" includes ground shaking, ground failure, landslide, liquefaction, lateral spreading, tsunami inundation, fault displacement, and subsidence;

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

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

Discussion

The Structural standard was addressed in Section D.5 of the Final Order of November 8, 2002. The Council imposed eight conditions in section D.5 of the Site Certificate to ensure compliance with the Structural standard. The Council added a ninth condition in its Order approving Amendment 5. The extension of the deadline to complete construction does not affect the Council’s findings that the construction and operation of the facility will be consistent with the Structural Standard.

Because PGE has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in previous Final Orders are sufficient to demonstrate compliance with the Structural standard.

Conclusion

The Council finds that the PWGP would comply with the Structural standard if Amendment #8 were approved.

5. Soil Protection OAR 345-022-0022

To issue a site certificate, the Council must find that the design, construction and operation 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

The Soil Protection standard was addressed in Section D.6 of the Final Order of November 8, 2002. The Council imposed ten conditions in section D.6 of the Site Certificate to ensure compliance with the Soil Protection standard. Condition D.6 (1) was amended by the Council’s Order approving Amendment 1. The extension of the deadline to complete construction does not affect the Council’s findings that the construction and operation of the facility will be consistent with the Soil Protection Standard.
Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in previous Final Orders are sufficient to
demonstrate compliance with the Soil Protection standard.

Conclusion
The Department recommends that the Council find that the PWGP would comply with
the Council's Soil Protection standard if Amendment #8 were approved.

6. **Protected Areas 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. References in this
rule to protected areas designated under federal or state statutes or regulations are to the
designations in effect as of May 11, 2007:

   (a) National parks, including but not limited to Crater Lake National Park and
Fort Clatsop National Memorial;

   (b) National monuments, including but not limited to John Day Fossil Bed
National Monument, Newberry National Volcanic Monument and Oregon Caves
National Monument;

   (c) Wilderness areas established pursuant to The Wilderness Act, 16 U.S.C. 1131
et seq. and areas recommended for designation as wilderness areas pursuant to
43 U.S.C. 1782;

   (d) National and state wildlife refuges, including but not limited to Ankeny,
Bandon Marsh, Basket Slough, Bear Valley, Cape Meares, Cold Springs, Deer
Flat, Hart Mountain, Julia Butler Hansen, Klamath Forest, Lewis and Clark,
Lower Klamath, Malheur, McKay Creek, Oregon Islands, Sheldon, Three Arch
Rocks, Umatilla, Upper Klamath, and William L. Finley;

   (e) National coordination areas, including but not limited to Government Island,
Ochoco and Summer Lake;

   (f) National and state fish hatcheries, including but not limited to Eagle Creek
and Warm Springs;

   (g) National recreation and scenic areas, including but not limited to Oregon
Dunes National Recreation Area, Hell's Canyon National Recreation Area, and
the Oregon Cascades Recreation Area, and Columbia River Gorge National
Scenic Area;

   (h) State parks and waysides as listed by the Oregon Department of Parks and
Recreation and the Willamette River Greenway;

   (i) State natural heritage areas listed in the Oregon Register of Natural Heritage
Areas pursuant to ORS 273.581;

   (j) State estuarine sanctuaries, including but not limited to South Slough
Estuarine Sanctuary, OAR Chapter 142;

   (k) Scenic waterways designated pursuant to ORS 390.826, wild or scenic rivers
designated pursuant to 16 U.S.C. 1271 et seq., and those waterways and rivers
listed as potentials for designation;
(l) Experimental areas established by the Rangeland Resources Program, College of Agriculture, Oregon State University: the Prineville site, the Burns (Squaw Butte) site, the Starkey site and the Union site;
(m) Agricultural experimental stations established by the College of Agriculture, Oregon State University, including but not limited to: Coastal Oregon Marine Experiment Station, Astoria Mid-Columbia Agriculture Research and Extension Center, Hood River Agriculture Research and Extension Center, Hermiston Columbia Basin Agriculture Research Center, Pendleton Columbia Basin Agriculture Research Center, Moro North Willamette Research and Extension Center, Aurora East Oregon Agriculture Research Center, Union Malheur Experiment Station, Ontario Eastern Oregon Agriculture Research Center, Burns Eastern Oregon Agriculture Research Center, Squaw Butte Central Oregon Experiment Station, Madras Central Oregon Experiment Station, Powell Butte Central Oregon Experiment Station, Redmond Central Station, Corvallis Coastal Oregon Marine Experiment Station, Newport Southern Oregon Experiment Station, Medford Klamath Experiment Station, Klamath Falls;
(n) Research forests established by the College of Forestry, Oregon State University, including but not limited to: McDonald Forest, Paul M. Dunn Forest, the Blodgett Tract in Columbia County, the Spaulding Tract in the Mary's Peak area and the Marchel Tract;
(o) Bureau of Land Management areas of critical environmental concern, outstanding natural areas and research natural areas;
(p) State wildlife areas and management areas identified in OAR chapter 635, Division 8.

Discussion

The Protected Areas standard was addressed in Section D.7 of the Final Order of November 8, 2002. The Council did not impose any conditions to ensure compliance with the Protected Areas standard. The extension of the deadline to complete construction does not affect the Council’s findings that the construction and operation of the facility will be consistent with the Protected Areas standard.

Because PGE has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in previous Final Orders are sufficient to demonstrate compliance with the Protected Areas standard.

Conclusion

The Council finds that the PWGP would comply with the Council’s Protected Areas standard if Amendment #8 were approved.

7. Scenic Resources OAR 345-022-0080

(1) Except for facilities described in section (2), to issue a site certificate, the Council must find that the design, construction and operation of the facility, taking into account
mitigation, are not likely to result in significant adverse impact to scenic resources and
groups identified as significant or important in local land use plans, tribal land
management plans and federal land management plans for any lands located within the
analysis area described in the project order.

Discussion

The Scenic Resources standard was addressed in Section D.10 of the Final Order of
November 8, 2002. The Council imposed seven conditions in section D.10 of the Site Certificate
to ensure compliance with the Scenic Resources standard. The extension of the deadline to
complete construction does not affect the Council’s findings that the construction and operation
of the facility will be consistent with the Scenic Resources Standard.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in previous Final Orders are sufficient to
demonstrate compliance with the Scenic Resources standard.

Conclusion

The Council finds that the PWGP would comply with the Council’s Scenic Resources
standard if Amendment #8 were approved.

8. Historic, Cultural and Archaeological Resources 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 and operation of the facility, taking into account
mitigation, are not likely to result in significant adverse impacts to:

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

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

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

Discussion

The Historic, Cultural and Archaeological Resources standard was addressed in Section
D.11 of the Final Order of November 8, 2002. The Council imposed five conditions in section
D.11 of the Site Certificate to ensure compliance with the Historic, Cultural and Archaeological
Resources standard. The conditions of approval were amended by the Council in the Orders
approving Amendments 1 and 5. The extension of the deadline to complete construction does
not affect the Council’s findings that the construction and operation of the facility will be
consistent with the Historic, Cultural and Archaeological Resources Standard.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in previous Final Orders are sufficient to
demonstrate compliance with the Historic, Cultural and Archaeological Resources standard.
Conclusion
The Council finds that the PWGP would comply with the Council’s Historic, Cultural
and Archaeological Resources standard if Amendment #8 were approved.

9. Recreation 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 irretirievability of the opportunity.

Discussion
The Recreation standard was addressed in Section D.12 of the Final Order of November
8, 2002. The Council did not impose any conditions to ensure compliance with the Recreation
standard. The extension of the deadline to complete construction does not affect the Council’s
findings that the construction and operation of the facility will be consistent with the Recreation
standard.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in previous Final Orders are sufficient to
demonstrate compliance with the Recreation standard.

Conclusion
The Council finds that the PWGP would comply with the Council’s Recreation standard
if Amendment #8 were approved.

D. Standards to Protect Wildlife

1. Threatened and Endangered Species 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 and
   operation 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 and operation 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 Threatened and Endangered Species standard was addressed in Section D.9 of the Final Order of November 8, 2002. The Council imposed eight conditions in section D.9 of the Site Certificate to ensure compliance with the Threatened and Endangered Species standard. The Council’s Order approving Amendment 3 added a ninth condition and amended another condition. The extension of the deadline to complete construction does not affect the Council’s findings that the construction and operation of the facility will be consistent with the Threatened and Endangered Species standard.

Because PGE has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in previous Final Orders are sufficient to demonstrate compliance with the Threatened and Endangered Species standard.

Conclusion

The Council finds that the PWGP would comply with the Council’s Threatened and Endangered Species standard if Amendment #8 were approved.

2. Fish and Wildlife Habitat OAR 345-022-0060

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

Discussion

The Fish and Wildlife Habitat standard was addressed in Section D.8 of the Final Order of November 8, 2002. The Council imposed 24 conditions in section D.8 of the Site Certificate to ensure compliance with the Fish and Wildlife Habitat standard. The conditions of approval were amended by the Council in the Orders approving Amendments 1, 2 and 3. A new condition was added by the Council’s Order approving Amendment 7. The extension of the deadline to complete construction does not affect the Council’s findings that the construction and operation of the facility will be consistent with the Fish and Wildlife Habitat standard.

Because PGE has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in previous Final Orders are sufficient to demonstrate compliance with the Fish and Wildlife Habitat standard.
E. Carbon Dioxide 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. The Council shall determine whether the base load carbon dioxide emissions standard is met as follows:

(1) The Council shall determine the gross carbon dioxide emissions that are reasonably likely to result from the operation of the proposed energy facility. The Council shall base such determination on the proposed design of the energy facility. The Council shall adopt site certificate conditions to ensure that the predicted carbon dioxide emissions are not exceeded on a new and clean basis;

(2) For any remaining emissions reduction necessary to meet the applicable standard, the applicant may elect to use any of the means described in OAR 345-024-0560, or any combination thereof. The Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from the applicant's offsets and whether the resulting net carbon dioxide emissions meet the applicable carbon dioxide emissions standard;

(3) If the applicant elects to comply with the standard using the means described in OAR 345-024-0560(2), the Council shall determine the amount of carbon dioxide emissions reduction that is reasonably likely to result from each of the proposed offsets. In making this determination, the Council shall not allow credit for offsets that have already been allocated or awarded credit for carbon dioxide emissions reduction in another regulatory setting. The fact that an applicant or other parties involved with an offset may derive benefits from the offset other than the reduction of carbon dioxide emissions is not, by itself, a basis for withholding credit for an offset. The Council shall base its determination of the amount of carbon dioxide emission reduction on the following criteria and as provided in OAR 345-024-0680:

(a) The degree of certainty that the predicted quantity of carbon dioxide emissions reduction will be achieved by the offset;
(b) The ability of the Council to determine the actual quantity of carbon dioxide emissions reduction resulting from the offset, taking into consideration any proposed measurement, monitoring and evaluation of mitigation measure performance;
(c) The extent to which the reduction of carbon dioxide emissions would occur in the absence of the offsets;

(4) Before beginning construction, the certificate holder shall notify the Department of Energy in writing of its final selection of a gas turbine vendor and shall submit a written design information report to the Department sufficient to verify the facility's designed new and clean heat rate and its nominal electric generating capacity at average annual site conditions for each fuel type. In the report, the certificate holder shall include the proposed limits on the annual average number of hours of facility operation on distillate fuel oil, if applicable. In the site certificate, the Council may specify other information to be included in the report. The Department shall use the information the certificate holder provides in the report as the basis for calculating, according to the site certificate, the amount of carbon dioxide emissions reductions the certificate holder must provide under OAR 345-024-0560.

Discussion

In section D.15 of the Final Order for the Port Westward Generating Project, dated November 8, 2002, the Council found that the applicant demonstrated that it complies with the Carbon Dioxide standard. The Council imposed ten site certificate conditions in section D.15 of the site certificate to ensure compliance with the Carbon Dioxide standard. A new condition was added by the Council’s Order approving Amendment 1, and conditions were amended by the Council’s Order approving Amendment 6 to reflect the Council’s rulemaking increasing the monetary offset rate. The Council found that the proposed Unit 2 meets the carbon dioxide standard for non-base load gas power plants, OAR 345-024-0590 and amended the conditions of approval in its Order approving Amendment #7. The carbon dioxide standard and the monetary path rate have not been updated since approval of Amendment #7.

Because PGE has proposed no change to the site, the facility, or its construction or operation, the Council finds that the findings in previous Final Orders are sufficient to demonstrate compliance with the Carbon Dioxide standard.

Conclusion

The Council finds that the PWGP would comply with Carbon Dioxide standard if Amendment #8 were approved.

V. OTHER APPLICABLE REGULATORY REQUIREMENTS

A. Requirements under Council Jurisdiction

Under ORS 469.503(3) and under the Council’s General Standard of Review (OAR 345-022-0000, the Council must determine that a facility complies with “all other Oregon statutes and administrative rules identified in the project order, as amended, as applicable to the issuance of a site certificate for the proposed facility.” In the Final Orders, the Council found that the other applicable Oregon statutes and administrative rules were the Department of Environmental Quality noise control regulations, the regulations adopted by the Department of State Lands for...
removal or fill of material affecting waters of the state and the Council’s statutory authority to
c consider protection of public health and safety.

1. Noise Control Regulations for Industry and Commerce OAR 340-035-0035
   (1) Standards and Regulations:
   
   (b) New Noise Sources:
   
   (A) New Sources Located on Previously Used Sites. No person owning or
   controlling a new industrial or commercial noise source located on a
   previously used industrial or commercial site shall cause or permit the
   operation of that noise source if the statistical noise levels generated by
   that new source and measured at an appropriate measurement point,
   specified in subsection (3)(b) of this rule, exceed the levels specified in
   Table 8, except as otherwise provided in these rules. For noise levels
   generated by a wind energy facility including wind turbines of any size
   and any associated equipment or machinery, subparagraph (1)(b)(B)(iii)
   applies.

Discussion

DEQ noise regulations for industrial and commercial noise sources apply to the PWGP.
The DEQ noise regulations were addressed in Section E.1.a. of the Final Order of
November 8, 2002. The Council imposed 5 conditions in section E.1.a. of the Site Certificate to
ensure compliance with the DEQ noise regulations. The Council amended and added conditions
in its Order approving Amendment 7. The extension of the deadline to complete construction
does not affect the Council’s findings that the construction and operation of the facility will
comply with the DEQ noise regulations.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in previous Final Orders are sufficient to
demonstrate compliance with the DEQ noise standards applicable to the facility.

Conclusion

The Council finds that the PWGP would comply with the applicable noise control
regulations if Amendment #8 were approved.

2. Removal-Fill Law

The Oregon Removal-Fill Law (ORS 196.800 through 990) and DSL regulations (OAR
141-085-0005 through 141-085-0090) require a Removal/Fill Permit if 50 cubic yards or more of
material is removed, filled or altered within any “waters of the state” at the proposed site.

Discussion

The DSL removal/fill regulations were addressed in Section E.1.b. of the Final Order of
November 8, 2002. The Council approved the removal/fill permit and imposed two conditions in
section E.1.b. of the Site Certificate to ensure compliance with the DSL removal/fill regulations.
The conditions of approval were amended by the Council in the Orders approving Amendments
1 and 3. The extension of the deadline to complete construction does not affect the Council's
findings that the construction and operation of the facility will comply with the DSL removal/fill
regulations.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the Council finds that the findings in previous Final Orders are sufficient to
demonstrate compliance with the DSL removal/fill permit requirements.

Conclusion
The Council finds that the PWGP would comply with the applicable DSL removal/fill
permit requirements if Amendment #8 were approved.

3. Public Health and Safety

Under ORS 469.310, the Council is charged with ensuring that the “siting, construction and
operation of energy facilities shall be accomplished in a manner consistent with protection of the
public health and safety...” State law further provides that “the site certificate shall contain
conditions for the protection of the public health and safety...” ORS 469.401(2).

Discussion

The Council addressed public health and safety in Section E.1.c. of the Final Order of
November 8, 2002. The Council imposed nine conditions in section E.1.c. of the Site Certificate
to ensure the public health and safety. The conditions of approval were amended by the Council
in the Orders approving Amendments 1 and 5. The extension of the deadline to complete
construction does not affect the Council’s findings that the construction and operation of the
facility protect the public health and safety.

Because PGE has proposed no change to the site, the facility, or its construction or
operation, the finds that the findings in previous Final Orders are sufficient to demonstrate
compliance with the Public Health and Safety standard.

Conclusion
The Council finds that the PWGP would comply with the Public Health and Safety
standard if Amendment #8 were approved.

B. Requirements That Are Not Under Council Jurisdiction

1. Federally-Delegated Programs
Under ORS 469.503(3), the Council does not have jurisdiction for determining
compliance with statutes and rules for which the federal government has delegated the decision
on compliance to a state agency other than the Council. Nevertheless, the Council may rely on
the determinations of compliance and the conditions in the federally-delegated permits issued by
these state agencies in deciding whether the proposed facility meets other standards and
requirements under its jurisdiction.

PORT WESTWARD GENERATING PROJECT
FINAL ORDER ON AMENDMENT #8 – August 19, 2011
In the Final Order on the Application, the Council found that the certificate holder must obtain a federal Air Contaminant Discharge Permit (ACDP) from the Oregon Department of Environmental Quality (DEQ) before beginning construction of the proposed facility. The certificate holder must also comply with requirements of DEQ’s 1200-C General National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge permit and Sediment Control Plan (ESCP) to minimize erosion at the site during construction operations.

2. Requirements That Do Not Relate to Siting

Under ORS 469.401(4), the Council does not have authority to preempt the jurisdiction of any state agency or local government over matters that are not included in the site certificate or amended site certificate. Such matters include design-specific construction or operating standards and practices that do not relate to siting. Nevertheless, the Council may rely on the determinations of compliance and the conditions in the permits issued by these state agencies and local governments in deciding whether the facility meets other standards and requirements under its jurisdiction.

VI. GENERAL APPLICATION OF CONDITIONS

The conditions described in this order include conditions that are specifically required by OAR 345-027-0020 (Mandatory Conditions in Site Certificates), OAR 345-027-0021 (Specific Conditions), OAR 345-027-0028 (Monitoring Conditions) or OAR Chapter 345, Division 26 (Construction and Operation Rules for Facilities). The conditions, or addendums to the site certificate by this order, include conditions based on representations in the request for amendment and the supporting record. The Council deems the representations to be binding commitments made by the certificate holder. Also included are conditions Council finds necessary to ensure compliance with the siting standards of OAR Chapter 345, Divisions 22 and 24, or to protect public health and safety.

In addition to all other conditions described or included in this order, the site certificate holder is subject to all conditions and requirements contained in the rules of the Council and in local ordinances and state law in effect on the date the amended site certificate is executed. Under ORS 469.401(2), upon a clear showing of a significant threat to the public health, safety or the environment that requires application of later-adopted laws or rules, the Council may require compliance with such later-adopted laws or rules.

The Council recognizes that many specific tasks related to the design, operation and retirement of the facility will be undertaken by the certificate holder’s agents or contractors. Nevertheless, the certificate holder is responsible for ensuring that all agents and contractors comply with all provisions of the site certificate.

VII. GENERAL CONCLUSION

The amendment proposed by PGE would extend the construction completion date for Unit 2 of the PWGP from May 8, 2011, to May 8, 2013. The Council adopts the revisions proposed by PGE. The Council adopts revisions to Conditions F.1.(6) as set forth in Section VII.A below.
Based on the findings and conclusions included in this order, the Council makes the following findings:

1. The proposed Amendment #8 complies with the requirements of the Oregon Energy Facility Siting statutes, ORS 469.300 to ORS 469.570 and 469.590 to 469.619.
2. The proposed Amendment #8 complies with the applicable standards adopted by the Council pursuant to ORS 469.501.
3. The proposed Amendment #8 complies with all other Oregon statutes and administrative rules applicable to the amendment of the site certificate for the PWGP that are within the Council’s jurisdiction.

Accordingly, the Council finds that the facility complies with the General Standard of Review (OAR 345-022-0000). The Council finds, based on a preponderance of the evidence on the record, that the site certificate may be amended as requested by the certificate holder and set forth below.

A. The Department’s Recommended Revisions

New text recommended by the Department is shown below in double-underlined bold typeface and recommended deletions have a strikethrough. Changes to Condition D.13 were drafted by the Department based on comments from Columbia County and the applicant. All changes to Condition F.1 recommended by the Department are identical to the changes requested by the applicant.

D.13 Public Services

(2) Prior to applying for construction permits for the second power generation unit, the Certificate Holder shall conduct a new Traffic Impact Analysis Study according to parameters agreed to by Columbia County and the Certificate Holder within 6 months from the date of issuance of Amendment to PGE’s Site Certificate, and shall enter into an Amended Traffic Improvement Agreement and pay a new Traffic Improvement Contribution to Columbia County according to the Amended Traffic Improvement Agreement and consistent with the new a Traffic Impact Analysis Study for the second power generation unit performed according to parameters agreed to by Columbia County and the Certificate Holder.

F.1. Mandatory Conditions in Site Certificates
Beginning and Completing Construction

(6) The Certificate Holder shall complete construction of the facility by May 8, 2011. The completion of construction date is the day by which (1) the facility is substantially complete as defined in the Certificate Holder’s construction contract documents; (2) acceptance testing is satisfactorily completed; and (3) the energy facility is ready to commence continuous operation consistent with the Site Certificate. Completion of construction of the Port Westward to BPA Allston
VIII. ORDER
The Council approves Amendment #8 and issues an amended site certificate for the Port Westward Generating Project subject to the terms and conditions set forth above.

Issued this 19th day of August, 2011.

OREGON DEPARTMENT OF ENERGY

By: [Signature]
W. Bryan Wolfe, Chair
Oregon Energy Facility Siting Council

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 to 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.