

1 **Attachment A**
2 **Final Order**
3 **Port Westward Generating Project**

4
5 **MEMORANDUM OF UNDERSTANDING**
6 **THE CLIMATE TRUST AND PORTLAND GENERAL ELECTRIC COMPANY**
7 **CARBON DIOXIDE STANDARD IMPLEMENTATION**
8 **MONETARY PATH PAYMENT REQUIREMENT**
9

10 [If the parties agree, they may substitute a bond for the letter of credit.]
11

12 THIS MEMORANDUM OF UNDERSTANDING (this “Agreement”) is entered into as of the
13 ___ day of _____, 200_, by and between Portland General Electric Company (the “Project
14 Owner”) in its capacity as owner of the Port Westward Generating Project, and The Climate
15 Trust (“The Trust”).
16

17 **RECITALS**
18

- 19 1. The Project Owner intends to design, finance, construct, own and operate a natural gas-fired
20 combined-cycle combustion turbine electric generating facility with a base-load net electric
21 power output of about 560 MW and a peaking net electric power output of about 650 MW
22 near the City of Clatskanie, Oregon. The facility, together with its ancillary systems, shall
23 be referred to herein as the “Project.”
24
- 25 2. The State of Oregon requires new energy facilities to meet a carbon dioxide emissions
26 standard as described in OAR 345-024-0550 through -0710.
27
- 28 3. As a condition to the siting of the Project, the Project Owner is required to provide offset
29 funds (“Offset Funds”) and selection and contracting funds (“Selection and Contracting
30 Funds”) to The Trust. In accordance with Section D.15 of the Site Certificate for the Port
31 Westward Generating Project (the “Site Certificate”) that the Oregon Energy Facility Siting
32 Council (the “Council”) granted to the Project Owner, dated November 8, 2002, the Project
33 Owner shall establish a third-party letter of credit (the “Letter of Credit”) in The Trust’s
34 name, acceptable to the Council, sufficient to meet the monetary path requirement. Under
35 the terms and conditions of this Agreement, the monetary path payments will be disbursed
36 to The Trust as specified in the Site Certificate and then by The Trust as specified in OAR
37 345-024-0710.
38
- 39 4. The Trust is a qualified organization within the meaning of OAR 345-001-0010(46).
40

41 NOW, THEREFORE, in consideration of the premises and mutual promises herein contained,
42 the parties hereto agree as follows:
43

- 44 **1. Initial Base-Load Monetary Path Payment and Initial Power Augmentation Monetary**
45 **Path Payment.**

- 1
2 1.1 The Project Owner has used the monetary path payment requirement calculations
3 described in Section D.15 of the Site Certificate to calculate the Initial Base-Load
4 Monetary Path Payment amount and has submitted them to the Oregon Office of
5 Energy (the “Office”) for verification. The Trust acknowledges that the calculation
6 of the Initial Base-Load Monetary Path Payment in fourth quarter, 2002 dollars
7 presented in Appendix A is correct and consistent with the Site Certificate.
8
- 9 1.2 The Project Owner has used the monetary path payment requirement calculations
10 described in Section D.15 of the Site Certificate to calculate the Initial Power
11 Augmentation Monetary Path Payment amount and has submitted them to the Office
12 for verification. The Trust acknowledges that the calculation of the Initial Power
13 Augmentation Monetary Path Payment in fourth quarter, 2002 dollars presented in
14 Appendix A is correct and consistent with the Site Certificate.
15
- 16 1.3 The Site Certificate requires that the Selection and Contracting Funds portion of both
17 the Initial Base-Load Monetary Path Payment and the Initial Power Augmentation
18 Monetary Path Payment be adjusted for inflation to the date of disbursement to The
19 Trust using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight,
20 published in the then current “Oregon Economic and Revenue Forecast” (the
21 “Index”). The Project Owner shall pay to The Trust the Inflation-Adjusted Selection
22 and Contracting Funds in the amount of \$_____ contemporaneously with
23 execution of this Agreement. The Trust acknowledges that the calculations of the
24 Inflation-Adjusted Selection and Contracting Funds presented in Appendix A are
25 correct and consistent with the Site Certificate.
26
- 27 1.4 Based on the verified calculations of the Initial Base-Load Monetary Path Payment
28 and the Initial Power Augmentation Monetary Path Payment set forth in Appendix A,
29 the Project Owner shall pay to the Trust \$_____ in Offset Funds in fourth
30 quarter, 2002 dollars pursuant to Section 1.6 below. The Site Certificate requires that
31 the Offset Funds portion of both the Initial Base-Load Monetary Path Payment and
32 the Initial Power Augmentation Monetary Path Payment be adjusted for inflation
33 from the fourth quarter, 2002, to the date of disbursement to The Trust using the
34 Index.
35
- 36 1.5 The Project Owner shall establish a Letter of Credit in the amount of \$_____ in
37 favor of The Trust, in the form attached as Appendix B to this Agreement. The
38 effective date of the Letter of Credit shall be _____, 200_. The Trust shall be
39 entitled to draw the entire amount of the Offset Funds secured by the Letter of Credit.
40 The Project Owner shall pay the costs of establishing and maintaining the Letter of
41 Credit and shall pay any transaction fees assessed by the issuer of the Letter of Credit.
42
- 43 1.6 The Trust shall have the right to draw Offset Funds upon execution of a letter of
44 intent to acquire an offset project. At the sole discretion of The Trust, the amount of
45 Offset Funds drawn may correspond to the entire amount of Offset Funds available.
46 The Trust may request less than the entire amount of the Offset Funds, but in no case

1 shall the cumulative amount of all requests exceed the total Monetary Path Payment
2 Requirement, as adjusted for inflation.
3

4 **2. Year One True-Up Base-Load Monetary Path Payment and Year One True-Up**
5 **Power Augmentation Monetary Path Payment.**
6

7 2.1 The Project Owner shall, within 30 days of filing its Year One Test reports to
8 Council, calculate the Year One True-Up Base-Load Monetary Path Payment, if any,
9 and the Year One True-Up Power Augmentation Monetary Path Payment, if any, as
10 required by Section D.15 of the Site Certificate. The Project Owner shall submit
11 these calculations to the Oregon Office of Energy for verification, as required by
12 Section D.15 of the Site Certificate.
13

14 2.2 Both the Year One True-Up Base-Load Monetary Path Payment and Year One True-
15 Up Power Augmentation Monetary Path Payment, if any, shall be adjusted for 2002
16 dollars from the calendar quarter of the Site Certificate approval to the Disbursement
17 Date using the Index.
18

19 2.3 If any Year One True-Up Base-Load Monetary Path Payment and/or Year One True-
20 Up Power Augmentation Monetary Path Payment is due, the Project Owner shall pay
21 this amount directly to The Trust within 30 days of filing its Year One Test report to
22 the Council.
23

24 2.4 In no case shall the calculations of this Section 2 cause the funding for the Initial
25 Base-Load Monetary Path Payment and the Initial Power Augmentation Monetary
26 Path Payment made available to The Trust by the Letter of Credit to diminish.
27

28 **3. Periodic Five-Year Power Augmentation Monetary Path Payments.**
29

30 3.1 Each five years after beginning commercial operation, the Project Owner shall report
31 the annual average hours of usage of power augmentation to the Office as required by
32 Section D.15 of the Site Certificate.
33

34 3.2 If the Office of Energy determines that there are excess emissions for the five-year
35 report period, the Office will specify the amount of Selection and Contracting Funds
36 and Offset Funds that the Project Owner shall make available to The Trust. Each
37 Periodic Five-Year Power Augmentation Monetary Path Payment, if any, shall be
38 adjusted for inflation from fourth quarter, 2002, to the Disbursement Date using the
39 Index.
40

41 3.3 For any Periodic Five-Year Power Augmentation Monetary Path Payment, the
42 Selection and Contracting Funds shall equal 20 percent of the value of any Offset
43 Funds up to the first \$250,000 (in 2002 dollars) and 4.286 percent of the value of any
44 Offset Funds in excess of \$250,000 (in 2002 dollars).
45

1 3.4 The Project Owner shall disburse to The Trust the specified amount of any Periodic
2 Five-Year Monetary Path Payment within 30 days of its notification by the Office of
3 the amount that the Project Owner owes.
4

5 **4. Undertaking by The Trust.**
6

7 4.1 The Trust shall use the Initial Base-Load Monetary Path Payment and Initial Power
8 Augmentation Monetary Path Payment, as well as any Year One True-Up Base-Load
9 Monetary Path Payment, Year One True-Up Power Augmentation Monetary Path
10 Payment, and/or Periodic Five-Year Power Augmentation Monetary Path Payments
11 in accordance with OAR 345-024-0710.
12

13 4.2 With respect to the Offset Funds portions of any Initial Base-Load Monetary Path
14 Payment, Initial Power Augmentation Monetary Path Payment, Year One Base-Load
15 Monetary Path Payment, Year One Power Augmentation Monetary Path Payment,
16 and/or Periodic Five-Year Power Augmentation Monetary Path Payments, The Trust
17 shall spend at least 80 percent of the Offset Funds for contracts to implement offsets,
18 and may use up to 20 percent of the Offset Funds for monitoring, evaluation,
19 administration, and enforcement of contracts to implement offsets.
20

21 4.3 The Selection and Contracting Funds portions of any Initial Base-Load Monetary
22 Path Payment, Initial Power Augmentation Monetary Path Payment, Year One Base-
23 Load Monetary Path Payment, Year One Power Augmentation Monetary Path
24 Payment, and/or Periodic Five-Year Power Augmentation Monetary Path Payments
25 shall compensate The Trust for its costs of selecting offsets and contracting for the
26 implementation of offsets and administrative costs related to operating The Trust as a
27 qualified organization.
28

29 4.4 The Trust shall use its best efforts to remain a qualified organization, as defined in
30 OAR 345-001-0010(45), until The Trust has used all funds received from the Project
31 Owner.
32

33 4.5 The Trust shall notify the Project Owner of its intent to draw on the Letter of Credit at
34 least one week before making a draw.
35

36 **5. Limited Obligation of Project Owner.**
37

38 The Trust acknowledges that, pursuant to OAR 345-024-0710(3), that the Project
39 Owner and the Project shall have no obligation with regard to offsets for the Project
40 other than to make available to The Trust the total amount of the monetary path
41 payments.
42

43 **6. Limited Participation by Project Owner in The Trust Decision Making.**
44

45 The Project Owner shall appoint one nonvoting member to the Board of Directors of
46 The Trust for a term lasting until The Trust has completed the contracting for the

1 offset funds provided by the Project Owner. The Project Owner shall have no
2 approval rights over The Trust's offset contracts, disbursement of Offset Funds, or
3 other day-to-day operations of The Trust.
4

5 **7. Project Owner Agreement to Indemnify and Hold The Trust Harmless.**
6

7 The Project Owner agrees to defend, hold harmless and indemnify The Trust from
8 and against any and all claims, costs, liabilities, and expenses of any nature
9 whatsoever, including reasonable attorneys' fees, resulting from or arising out of any
10 failure by the Project Owner to make any payments required by this Agreement, or to
11 establish the Letter of Credit described in Section 1.5 in a timely manner;
12 PROVIDED, that the maximum amount of the Project Owner's liability to The Trust
13 for claims, costs, liabilities and expenses, including attorneys' fees, arising out of the
14 failure to make a payment or establish the Letter of Credit required by this Agreement
15 in a timely manner shall not exceed twice the differential between the amount payable
16 to The Trust on a particular date and the amount actually paid or made available to
17 The Trust on or before that date. FURTHER PROVIDED, The Trust must make
18 reasonable efforts to mitigate any losses, liabilities or expenses for which it seeks
19 indemnification from the Project Owner.
20

21 **8. General Provisions.**
22

23 8.1 Governing Law: This Agreement shall be governed by and construed in accordance
24 with the laws of the State of Oregon. Any ambiguity that may arise under this
25 Agreement shall be given a fair and reasonable construction in accordance with the
26 intention of the parties and without regard to which party caused or is deemed to have
27 caused such ambiguity to exist.
28

29 8.2 Amendments and Waivers: This Agreement may not be modified, supplemented,
30 altered or amended, nor any provision hereof or rights hereunder be waived, except
31 by an instrument in writing designated as an amendment of or waiver under this
32 Agreement and signed by both parties. The waiver of any particular breach or default
33 hereunder shall not constitute a waiver of any other breach or default. Failure or
34 delay by any party to enforce any provision of this Agreement shall not in any way be
35 construed as a waiver of such provision, nor shall it prevent such party from
36 thereafter enforcing each and every provision of this Agreement.
37

38 8.3 Entire Agreement: This Agreement constitutes the entire agreement between the
39 parties hereto as to the matters set forth herein, and all prior proposals, commitments,
40 understandings and agreements, whether oral or in writing, as to such matters are
41 superseded by this Agreement.
42

43 8.4 Assignment: The rights of the Project Owner under this Agreement may be assumed
44 by any entity that acquires an ownership interest in the Project. Upon such
45 assumption, such entity shall be deemed to be a party to this Agreement. The Trust
46 may not assign this Agreement without the prior consent of the Project Owner and

1 Council; provided that, if the proposed assignee is a “qualified organization” as
2 defined in OAR 345-001-0010(45), the Project Owner shall not unreasonably
3 withhold such consent.
4

5 8.5 Third-Party Beneficiaries: Nothing in this Agreement, whether express or implied, is
6 intended to confer any rights or remedies on any persons other than the parties hereto
7 and their respective authorized successors and permitted assigns.
8

9 IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be
10 executed by their respective duly authorized representatives, as of the day and year first above
11 written.
12

13 PORTLAND GENERAL ELECTRIC COMPANY

THE CLIMATE TRUST

14
15
16
17 By: _____

By: _____

18
19 Name: _____

Name: _____

20
21 Title: _____

Title: _____

22
23 Date: _____

Date: _____

24
25
26 APPENDIX A: CALCULATION OF INITIAL BASE-LOAD AND POWER AUGMENTATION MONETARY
27 PATH PAYMENT REQUIREMENT [NOT INCLUDED IN SITE CERTIFICATE]
28

29 APPENDIX B: FORM OF LETTER OF CREDIT

30 /

31 /

32 /

1 **APPENDIX B TO MEMORANDUM OF UNDERSTANDING**
2 **[FORM OF CLIMATE TRUST LETTER OF CREDIT]**
3

4 *[If a bond is used, the form of the bond shall be substantially in the form of the letter of credit.]*
5

6 [Date]
7

8 **BENEFICIARY:**

9 The Climate Trust
10 516 SE Morrison Street, Suite 300
11 Portland, OR 97214
12 Attn: Mike Burnett, Executive Director
13

14 **IRREVOCABLE LETTER OF CREDIT NO. _____**
15

16 At the request and for the account of _____, we hereby issue in your favor our
17 Irrevocable Letter of Credit No. _____ (this "Letter of Credit") for U.S. \$ _____ (the "Stated
18 Amount").
19

20 We are informed that this Letter of Credit is issued to you pursuant to the Site Certificate
21 for the Port Westward Generating Project, dated November 8, 2002.
22

23 Subject to the provisions herein, funds under this Letter of Credit are available against
24 presentation of this Letter of Credit and your draft drawn at sight and marked "Drawn on
25 _____ Letter of Credit No. _____," accompanied by a written certificate in the form of
26 Annex A hereto with the blanks duly completed and purportedly signed by your Executive
27 Director and dated as of even date with the draft.
28

29 Subject to the provisions herein, we hereby authorize you to draw hereunder in an
30 amount not to exceed the Stated Amount from the date hereof through our close of business on
31 the date on which the Stated Amount is reduced to zero by a drawing hereunder.
32

33 Partial drawings are permitted under this Letter of Credit. The amount available to be
34 drawn under this Letter of Credit shall be automatically reduced by the amount of any drawings
35 hereunder. Upon the payment of drawings that in the aggregate equal the Stated Amount, we
36 shall be fully discharged of our obligation under this Letter at Credit and we shall not thereafter
37 be obligated to make any further payments under this Letter of Credit.
38

39 Presentation of this Letter of Credit, such draft and such certificate shall be made at
40 _____, by physical delivery of such documents to such office. _____ will accept physical
41 delivery of such documents either by hand delivery, by mail, by overnight courier, or by any
42 other commercially-accepted means of delivery. Our only obligation with regard to a drawing
43 under this Letter of Credit shall be to examine such draft and certificate and to pay in accordance
44 therewith if the same conforms to the terms and conditions of this Letter of Credit, and we shall
45 not be obligated to make any inquiry in connection with the presentation of this Letter of Credit,
46 the draft and the certificate.
47

1 If any request for payment hereunder is presented in compliance with the terms of this
2 Letter of Credit to us at such address by ____ (local time) on any Business Day, payment will be
3 made at or before _____ (local time) on _____, and if such request is so presented to us _____
4 (local time) on any Business Day, payment will be made at or before _____.

5
6 If a demand for payment made hereunder does not, in any instance, conform to the terms
7 and conditions of this Letter of Credit, we shall give you prompt notice that your demand for
8 payment was not effected in accordance with the terms and conditions of this Letter of Credit,
9 stating the reasons therefore and that we will, upon your instructions, hold any documents at
10 your disposal or return the same to you. Upon being notified that the demand for payment was
11 not effected in conformity with this Letter of Credit, you may attempt to correct any such
12 nonconforming demand to the extent you are able to do so; *provided, however*, that any draft or
13 document presented to correct such nonconforming demand must be presented on or before the
14 Termination Date.

15
16 Communications with respect to this Letter of Credit shall be in writing and shall be
17 addressed to us at _____, specifically referring therein to this Letter of Credit by number.

18
19 As used herein, a “Business Day” shall mean any day other than Saturday or Sunday or a
20 day on which banking institutions in the City of _____ are authorized or required by law to
21 close.

22
23 Presentation of any certificate hereunder shall be deemed to be authentic if signed by a
24 person purporting to be your Executive Director.

25
26 This Letter of Credit and the attached Annex A set forth in full our undertaking, and such
27 undertaking shall not in any way be modified, amended, amplified, or limited by reference to any
28 document, instrument or agreement referred to in this Letter of Credit, except only the
29 certificates referred to herein, and any such reference shall not be deemed to incorporate herein
30 by reference any document, instrument or agreement except for such certificates.

31
32 _____ hereby engages solely with The Climate Trust that drafts drawn hereunder
33 and in compliance with the terms of this Letter of Credit will be duly honored upon presentation
34 to us by our prompt payment to you of the amount specified in the certificate accompanying such
35 draft.

36
37 This Letter of Credit and the attached Annex A shall be subject to the provisions (to the
38 extent that such provisions are not inconsistent with this Letter of Credit) of the Uniform
39 Customs and Practices for Documentary Credits, 1993 Revision, International Chamber of
40 Commerce Publication No. 500. To the extent that the provisions of this Letter of Credit are not
41 covered by such Uniform Customs and Practices, this Letter of Credit shall be governed by and
42 enforced and construed in accordance with the laws of the State of Oregon.

[LETTERHEAD OF THE CLIMATE TRUST]

DRAW CERTIFICATE

IRREVOCABLE LETTER OF CREDIT NO.

The undersigned, the Executive Director of The Climate Trust (the "Beneficiary") hereby certifies to _____ (the "Issuing Bank") with reference to the Irrevocable Letter of Credit No. _____ (the "Letter of Credit") issued by the Issuing Bank in favor of the Beneficiary (any capitalized term used herein and not otherwise defined shall have the respective meaning set forth in the Letter of Credit) that:

1. The Beneficiary is making a drawing under the Letter of Credit pursuant to the Memorandum of Understanding dated _____, 200__, between The Climate Trust and Portland General Electric Company (the "MOU") in the amount of \$_____ (the "Drawing Amount");
2. The Drawing Amount hereunder does not exceed the Stated Amount reduced by all previous drawings under the Letter of Credit; and
3. The Drawing Amount is not more than the amount that the Climate Trust is entitled to draw at this time under the terms of the MOU.

The Beneficiary hereby irrevocably authorizes and directs the Issuing Bank to pay the Drawing Amount in immediately available funds to The Climate Trust, Attention: Executive Director, by sending such payment by wire transfer to:

IN WITNESS WHEREOF, the Beneficiary has executed and delivered this certificate as of the ____ day of _____, ____.

THE CLIMATE TRUST, as Beneficiary

By: _____
Name:
Executive Director

ATTACHMENT B.1, FINAL ORDER, PWGP

Expiration Date: 31-Mar-2012
Permit Number: DRAFT
File Number: 111764
Page 1 of 8 Pages

WATER POLLUTION CONTROL FACILITIES PERMIT

Department of Environmental Quality
Northwest Region
2020 SW Fourth Avenue, Suite 400, Portland, OR 97201
Telephone: (503) 229-5263

Issued pursuant to ORS 468B.050

ISSUED TO:

Portland General Electric
121 SW Salmon Street
Portland, Oregon 97204

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>System</u>	<u>Method of Treatment/Disposal</u>
Domestic Sewage	001	Bottomless sand filter

SYSTEM TYPE AND LOCATION:

On-Site Sewage Treatment and Disposal

Port Westward Generating Plant
80997 Kallunki Road
City/Town: Clatskanie

Located in: Sect. 15&22, T8N,R4W
Latitude: 46.1800
Longitude: -123.1717

RIVER BASIN INFORMATION:

Hydro Code: 10--COLU 51.3 N

COUNTY:

Columbia

Issued in response to Application No. 986243.

This permit is issued based on the Final Order in the Matter of the Application for a Site Certificate for the Port Westward Generating Project in lieu of a Land Use Compatibility Statement.

Robert P. Baumgartner, Water Quality Manager
Northwest Region

Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a wastewater collection, treatment, control and disposal system in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

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Schedule A - Waste Disposal Limitations	2
Schedule B - Minimum Monitoring and Reporting Requirements	3
Schedule C - (Not Applicable).....	-
Schedule D - Special Conditions	4
Schedule E - Not Applicable	-
Schedule F - General Conditions	5-8

Discharge of untreated or partially treated sewage or septic tank effluent directly or indirectly onto the ground surface or into surface waters constitutes a public health hazard and is prohibited. This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule or standard.

SCHEDULE A**Waste Disposal Limitations**

1. The permittee is authorized to operate and maintain a domestic sewage treatment and disposal facility consisting of a bottomless sand filter unit with final disposal to the soil beneath the filter and in compliance with the following conditions:

- a) The average daily sewage flow to the SAND FILTER should be approximately fifty percent (50%) of the maximum daily or peak flow to the treatment system. The maximum peak daily flow shall not exceed the following unless otherwise approved by the Department:

System	Maximum Daily Flow
1	1200 gpd

- b) The **influent** to the treatment unit shall not exceed the following maximum concentrations:

Parameter	Limitation
BOD5	300 mg/l
Greases and Oil	25 mg/l
TSS	150 mg/l
TKN	150 mg/l

- c) The **effluent** from the treatment unit shall not exceed the following maximum concentrations:

Parameter	Limitation
BOD5	20 mg/l
TSS	20 mg/l

- d) No discharge to surface waters is permitted. All wastewater shall be distributed into the soil beneath the filter so as to prevent:

- 1) Surfacing of wastewater on the ground surface, surface runoff or subsurface drainage through drainage tile.
- 2) The creation of odors, fly and mosquito breeding and other nuisance conditions.
- 3) The overloading of land with nutrients or organics.
- 4) Impairment of existing or potential beneficial uses of groundwater.

2. No cooling water, air conditioner water, water softener brine, groundwater, oil, hazardous materials, roof drainage, storm water runoff, or other aqueous or non-aqueous substances which are, in the judgment of the Department, detrimental to the performance of the system or to groundwater, shall be discharged into the sewage treatment system, unless specifically approved in writing by the Department.

3. No Activities shall be conducted that could cause an adverse impact on existing or potential beneficial uses of groundwater.

SCHEDULE B**Minimum Monitoring and Reporting Requirements**1. **System Monitoring Requirements**

The permittee shall monitor the operation and efficiency of all treatment and disposal facilities. Sampling and measurements taken as required herein shall be representative of the nature of the wastewater, and shall be taken at peak usage during operation of the system. Unless otherwise agreed to in writing by the Department of Environmental Quality, data collected, and submitted shall include but not necessarily be limited to the following parameters and minimum frequencies:

a. **Influent to the Treatment Unit**

Item or Parameter	Minimum Frequency	Type of Sample
Sewage Flow, GPD	Monthly Average	Measurement or calculation based on meter readings
Flow Meter Calibration	Annually	Verification

b. **Effluent from the Sand filter;**

Item or Parameter	Minimum Frequency	Type of Sample
BOD ₅	Semi-annually *	Grab
TSS	Semi-annually *	Grab
NH ₃ -N	Annually *	Grab
NO ₃ + NO ₂ -N	Annually *	Grab
TKN	Annually *	Grab

*Upon receipt of a five year contract in place with a maintenance entity acceptable to the Department, the Department will reduce sampling frequency during the first five years of the permit to one time, to be done during the fifth year of the permit. The Department may allow some reduction of the sampling following the fifth year of the permit if the second five year contract is in place after the end of the first five year contract.

c. **Operations and Maintenance Activities**

The permittee shall record in writing all observations of operation and maintenance activities as required in the Department approved Operation and Maintenance Plan on a monthly basis.

d. **Solids Management**

The permittee shall maintain a record of the pumping dates and quantity in gallons, of solids/wastewater pumped, and what licensed sewage disposal service company pumped the solids/wastewater, as well as the final disposal location and transfer locale (if applicable).

2. **Reporting Procedures**

Monitoring, maintenance practices, solids handling, and results shall be reported on Department approved forms. The reporting period is the calendar year. Reports must be submitted to the DEQ office listed on the face page of this permit by **January 15 following the reporting period.**

SCHEDULE D

Special Conditions

1. The permittee shall maintain on file a complete Operation and Maintenance (O&M) Plan approved by the Department. The permittee shall operate, manage and implement preventative maintenance practices or corrections at the frequencies required in the Department approved O&M Plan. Any changes to the plan must be approved by the Department.
2. In the event that a concentration limit, as specified in Schedule A, to the soil beneath the filter is exceeded, the permittee shall within fourteen (14) working days of receipt of the analytical results:
 - a) Report the results to the Department;
 - b) Resample to verify the results; and
 - c) In the event that the resampling confirms a concentration limit violation, within thirty (30) days of confirmation, the permittee shall submit to the Department a corrective action plan to reduce the waste strength so that the concentration limits are not violated. Upon Department approval, the plan shall be implemented by the permittee.
3. The permittee shall contract with a licensed sewage disposal service as defined in Oregon Administrative Rule 340-71-100 for management of all septage/sludge.
4. All bench sheets, laboratory analysis sheets, and other records to support the data reported on the Discharge Monitoring Report (DMR) shall be prepared in ink and shall be kept on file for a period of at least 3 years from the date of the sample, measurement, report or application. Pencil entries or liquid paper corrections are prohibited and shall be considered Class I violations of the permit. Changes to any supporting records that may be required to correct the original data may be made by lining through the original data. The date of the change and the initials of the individual making the change shall be recorded in ink adjacent to the change.
5. The sand filter area including replacement area shall not be subject to activities that would, in the opinion of the Department, adversely affect the soil or the functioning of the system. This includes, but is not limited to, vehicular or animal traffic, filling or cutting, covering the area with asphalt or concrete, or subjecting the area to excessive saturation.
6. The permittee shall not be required to perform a formal hydrogeologic characterization or preliminary groundwater monitoring during the term of this permit provided that the facilities are operated in accordance with the permit conditions, and there are no apparent adverse groundwater quality impacts (complaints or other indirect evidence) resulting from the facility's operation. If warranted, the Department may evaluate the need for or require a full assessment of the facility's impact on groundwater quality and if necessary may reopen this permit to include groundwater monitoring parameters.
7. An adequate contingency plan for prevention and handling of spills and unplanned discharges shall be in force at all times. The permittee shall immediately notify the DEQ office listed on the face page of this permit and the local County Health Department of any occurrence of surfacing sewage. If a spill does occur that reaches or threatens to reach public waters, the permittee shall immediately notify Oregon Emergency Response (OER) at 1-800-452-0311.

SCHEDULE F

General Conditions

SECTION A. - STANDARD CONDITIONS

1. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws, or regulations.

2. Liability

The Department of Environmental Quality, its officers, agents, or employees shall not sustain any liability on account of the issuance of this permit or on account of the construction or maintenance of facilities because of this permit.

3. Permit Actions

After notice by the Department, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to the following:

- a. Violation of any term or condition of this permit, any applicable rule or statute, or any order of the Commission;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.

4. Transfer of Permit

This permit shall not be transferred to a third party without prior written approval from the Department. Such approval may be granted by the Department where the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of this permit and the rules of the Commission. A transfer application and filing fee must be submitted to the Department.

5. Permit Fees

The permittee shall pay the fees required to be filed with this permit application and to be paid annually for permit compliance determination as outlined in the Oregon Administrative Rules.

SECTION B. - OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee shall at all times maintain in good working order and properly operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

2. Standard Operation and Maintenance

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. At all times, all facilities shall be operated as efficiently as possible and in a manner which will prevent discharges, health hazards, and nuisance conditions.
- b. All screenings, grit, and sludge shall be disposed of in a manner approved by the Department such as to prevent any pollutant from such materials from reaching any waters of the state, creating a public health hazard, or causing a nuisance condition.
- c. Bypassing of untreated waste is generally prohibited. No bypassing shall occur without prior written permission from the Department except where unavoidable to prevent loss of life, personal injury, or severe property damage.

3. Noncompliance and Notification Procedures

In the event the permittee is unable to comply with all the conditions of this permit because of surfacing sewage, a breakdown of equipment or facilities, an accident caused by human error or negligence, or any other cause such as an act of nature, the permittee shall:

- a. Immediately take action to stop, contain, and clean up the unauthorized discharges and correct the problem.
- b. Immediately notify the Department's Regional office, so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
- c. Within 5 days of the time the permittee becomes aware of the circumstances, the permittee shall submit to the Department a detailed written report describing the breakdown, the actual quantity and quality of resulting waste discharges, corrective action taken, steps taken to prevent a recurrence, and any other pertinent information.

Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or the resulting liability for failure to comply.

4. Wastewater System Personnel

The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance, and monitoring requirements to assure continuous compliance with the conditions of this permit.

SECTION C. - MONITORING AND RECORDS

1. Inspection and Entry

The permittee shall, at all reasonable times, allow authorized representatives of the Department of Environmental Quality to:

- a. Enter upon the permittee's premises where a waste source or disposal system is located or where any records are required to be kept under the terms and conditions of this permit;
- b. Have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. Inspect any treatment or disposal system, practices, operations, monitoring equipment, or monitoring method regulated or required by this permit; or

d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

2. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean.

3. Retention of Records

The permittee shall retain records of all monitoring and maintenance information, including all calibrations, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. The Director may extend this period at any time.

SECTION D. - REPORTING REQUIREMENTS

1. Plan Submittal

Pursuant to Oregon Revised Statute 468B.055, unless specifically exempted by rule, no construction, installation or modification of disposal systems, treatment works, or sewerage systems shall be commenced until plans and specifications are submitted to and approved in writing by the Department. All construction, installation or modification shall be in strict conformance with the Department's written approval of the plans.

2. Change in Discharge

Whenever a facility expansion, production increase, or process modification is anticipated which will result in a change in the character of pollutants to be discharged or which will result in a new or increased discharge that will exceed the conditions of this permit, a new application must be submitted together with the necessary reports, plans, and specifications for the proposed changes. No change shall be made until plans have been approved and a new permit or permit modification has been issued.

3. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified by the official applicant of record (owner) or authorized designee.

SECTION E. DEFINITIONS

1. BOD₅ means five-day biochemical oxygen demand.
2. TSS means total suspended solids.
3. FC means fecal coliform bacteria.
4. NH₃-N means Ammonia Nitrogen.
5. NO₃-N means Nitrate Nitrogen.
6. NO₂-N means Nitrite Nitrogen.
7. TKN means Total Kjeldahl Nitrogen.
8. Cl means Chloride.
9. TN means Total Nitrogen.
10. mg/L means milligrams per liter.
11. µg/L means micrograms per liter.
12. kg means kilograms.
13. GPD means gallons per day.
14. MGD means million gallons per day.
15. The term "bacteria" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.
16. Total residual chlorine means combined chlorine forms plus free residual chlorine.
17. Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
18. Composite sample means a combination of samples collected, generally at equal intervals over a 24-hour period, and apportioned according to the volume of flow at the time of sampling.
19. Week means a calendar week of Sunday through Saturday.
20. Month means a calendar month.
21. Quarter means January through March, April through June, July through September, or October through December.

ATTACHMENT B.2, FINAL ORDER, PWGP



**OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
LARGE ONSITE WPCF PERMIT EVALUATION
May 1, 2002**

Permittee:	Portland General Electric	Manager Approval Initials:	
	121 SW Salmon Street Portland, Oregon 97204 File Number: 111764		
Source Contact:	Arya Behbehani-Divers	Telephone Number: (503) 464-8141	
Source Location:	80997 Kallunki Road, Clatskanie		
County:	Columbia		
Permit Writer:	Anne Cox	NWR Office	
Proposed Action:	New WPCF-OS	Application No.: 986243	Date Received: 3/29/02

Introduction

Under Oregon Administrative Rule Chapter 340 Division 71 Section 130 (15) [OAR 340-71-130(15)], any person proposing a sand filter system to serve a commercial facility shall obtain a WPCF permit from the Department of Environmental Quality.

This area was originally evaluated for on-site sewage disposal by Columbia County onsite staff. On February 8, 2002, the Department confirmed the evaluation of this site in relation to the proposed PGE facility.

Facility Description

Total Design Flow of Facility	1,200 Gallons per day
Number of Systems	One

System #1

Date Constructed	To be constructed in 2002 or later
Design Capacity	1,200 gpd
Facilities Served	Sanitary facilities for the Port Westward Generating plant, bathrooms & sinks.
Type of Treatment	Bottomless Sand filter
Type of Soils	Sand

Comments: Latitude and Longitude for the test pit area is 46 10 41, -123 10 16.

Groundwater

As part of this permit evaluation, a groundwater prioritization screening was done. The results of this screening is as follows:

For new and existing drainfield systems (confirm all statements given as true or false:	
1. Based on the depth to the water table <u>underline the applicable statement</u> and confirm it as either true or false: A. <u>Depth to water table is less than 100 feet</u> : System design flow is less than 5,000 gpd. B. Depth to water table is between 100 and 300 feet; system design flow is less than 10,000 gpd. C. Depth to water table is greater than 300 feet; system design flow is less than 15,000 gpd.	True
2. System is not located in Groundwater Management Area where an identified contaminant of concern may be associated with domestic wastewater.	True
3. Drainfield is not located within: 1000 feet of an existing public or private drinking water supply well or a designated Wellhead Protection Area, And, all land within 1000 feet of the system is zoned such that no drinking water wells are likely to be installed in the future.	False
4. No industrial sources discharge to the system	True
5. There are no exceptional situations under which the system may require further groundwater review to determine the likelihood of an adverse impact.	True

If all answers are true, then no further information is needed.

If any answers are false, has additional information been gathered to satisfy the permit writer and groundwater reviewer that the facility actually has a low potential to adversely impact groundwater? **Yes** If yes, provide details.

All domestic wells are over the 100 foot setback required by OAR 340-71. In fact there are no wells within ½ mile of the project. The initial groundwater in this area is essentially the Columbia River and can be expected to discharge to the river.

The projected sewage flow from this facility is 1,200 gpd, equivalent to 2.6 residential homes located on a parcel of 19 acres. Sand filter effluent is expected to produce 10 mg/l BOD, 10 mg/l TSS, reduce bacteria counts by 98 to 99% and lowers total nitrogen by approximately 50%. The site meets Division 71 Onsite rules criteria for approval of a bottomless sand filter. The proposed flows will be low. The potential to impact the groundwater is negligible.

Compliance History

This is a new permit. There is no compliance history.

PERMIT DISCUSSION

Schedule A – Waste Disposal Limitations

Schedule A contains the following limitations for each system:

- x System Maximum Daily flow
- x Influent maximum concentrations (Sand Filters and RGFs only)
- x Effluent maximum concentrations
- x Prohibition of discharges to surface waters
- x Prohibition of discharge of detrimental substances to system
- x Groundwater restrictions.

Schedule B – Minimum Monitoring and Reporting Requirements

Monitoring parameters and frequencies are based on the Department monitoring matrix. Any modifications are listed as follows:

If the permittee enters into a five year maintenance contract with an acceptable entity, the Department will reduce sampling requirements to one time during that period, at the fifth year of the permit. Further reduction in sampling can be allowed after the fifth year of the permit if the permittee enters into another five year contract.

Schedule D – Special Conditions

Schedule D contains the following special conditions:

- x Operations and Maintenance Requirements
- x Septage/sludge management
- x Maintenance of vegetation in the drainfield area
- x Prohibition of activities that would adversely affect the soil or functioning of the system.
- x Contingency plan requirement
- x Groundwater Requirements

Schedule F – General Conditions

This Schedule contains general conditions that are applicable to all WPCF permits in Oregon.

Division of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503-378-3805

Permit No.:	25248-FP
Permit Type:	Fill
Waterway:	Columbia River/Wetlands
County:	Columbia
Expiration Date:	
Corps No.:	

PORTLAND GENERAL ELECTRIC

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE REMOVAL/FILL APPLICATION SUBMITTED AS PART OF THE APPLICATION FOR A SITE CERTIFICATE FOR THE PORT WESTWARD GENERATING PROJECT, FILED APRIL 11, 2002, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. A copy of the permit shall be available at the work site whenever operations authorized by the permit are being conducted.
6. Employees of the Division of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
7. The Division of State Lands issues this permit pursuant to the Site Certificate for the Port Westward Generating Project, issued by the Oregon Energy Facility Siting Council, November 8, 2002.
8. In issuing this permit, the Division of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
9. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

NOTICE: If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 - 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Division of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Division of State Lands, 503-378-3805.

Lori Warner, Manager
Western Region Field Operations
Oregon Division of State Lands

Authorized Signature

Date Issued

ATTACHMENT A to Removal/Fill Permit

Special Conditions for Removal/Fill Permit No. 25248-FP. PLEASE READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT. This project may be site inspected by the Division of State Lands as part of our monitoring program. The Division has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. This permit authorizes the placement of up to 3,000 cubic yards of gravel sand and silt and removal of up to 4,500 cubic yards of silt and clay in T8N, R4W, Sections 15 and 22, Tax Lots 3 and 4 in wetlands and Columbia River, Columbia County for power generation facility, transmission line, and water intake station upgrades, as outlined in the attached permit application, map and drawings, dated April 11, 2002 (Application). Removal-fill activity for wastewater discharge line and river outfall is specifically not authorized by this permit.
2. This permit authorizes removal and fill activities necessary to complete the required compensatory mitigation.
3. **TURBIDITY/EROSION CONTROLS.** The authorized work shall not cause turbidity of affected waters to exceed 10% over natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient of 2% or less), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This turbidity standard exceedance interval applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land.

For projects in all other areas, the turbidity standard can be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects may also be subject to additional reporting requirements.

Turbidity shall be monitored during active in-water work periods. Monitoring points shall be at an undisturbed site (representative background) 100 feet upstream from the turbidity causing activity (i.e., fill or discharge point), 100 feet downstream from the fill point, and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard.

Practicable erosion control measures which shall be implemented, as appropriate, include but are not limited to the following:

- a. Place fill in the water using methods that avoid disturbance to the maximum practicable extent (e.g. placing fill with a machine rather than end-dumping from a truck).
 - b. Prevent all construction materials and debris from entering waterway;
 - c. Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, Jersey barriers, sand bags, or other measures sufficient to prevent movement of soil;
 - d. Use impervious materials to cover stockpiles when unattended or during rain event;
 - e. Erosion control measures shall be inspected and maintained daily to ensure their continued effectiveness;
 - f. No heavy machinery in a wetland or other waterway;
 - g. Use a gravel staging area and construction access;
 - h. Fence off planted areas to protect from disturbance and/or erosion; and
 - i. Flag or fence off wetlands adjacent to the construction area.
4. Erosion control measures shall be maintained as necessary to ensure their continued effectiveness, until soils become stabilized. All erosion control structures shall be removed when project is complete and soils are stabilized and vegetated.
 5. Fill and removal activities in the Columbia River shall be conducted between November 1 and February 28, unless otherwise coordinated with ODFW and approved in writing by ODSL.
 6. Petroleum products, chemicals, or other deleterious materials shall not be allowed to enter waters of the state.
 7. No fresh concrete shall be allowed to come into contact with waters of the state unless otherwise coordinated with ODFW and approved in writing by ODSL.
 8. Waste materials and spoils shall be placed in a stable upland location above the top of bank and shall be suitably stabilized to prevent erosion.
 9. If any archaeological resources and/or artifacts are uncovered during excavation, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-378-4168).
 10. The Division of State Lands retains the authority to temporarily halt or modify the project within the scope of the site certificate issued by the Energy Facility Siting Council in case of unforeseen damage to natural resources.

11. The permittee is responsible for carrying-out the terms and conditions of this permit unless the permit is transferred to another party using forms provided by the Division.

Compensatory Wetland Mitigation

The following conditions apply to the actions described in the Application, Appendix J-3, Wetland Mitigation Plan, dated May 2002 (Mitigation Plan). The issuance of this permit is contingent upon the successful compensatory wetland mitigation for the loss of 0.41 acres of wetlands resulting from power generating facility development and up to 0.02 acres of wetlands resulting from construction of transmission towers for a total of 0.43 acres impact.

12. On-site compensatory mitigation for the loss of 0.43 acres of palustrine emergent, seasonally saturated (PEMc) and scrub-shrub (PSSc), riverine flow-through (RFT)/depressional wetland, shall consist of 1.5 acres of enhancement to PEMc, PSSc, palustrine forested (PFO), RFT/depressional wetland.
13. Mitigation for temporary impacts (0.03 acres) resulting from water supply line installation shall consist of rehabilitation to original ground contours and re-vegetation with appropriate wetland seed mix upon re-establishment of original contours. Similar rehabilitation shall also be provided for any temporary wetland impacts associated with transmission towers installation (e.g., equipment ruts, tracks). During trenching or excavation, the top layer of soil shall be separated from the rest of the excavated material and put back on top when the trench or pit is back-filled. If the native underlying soils are not used as bedding material, and a coarser, non-native soil or other material is used, preventative measures such as clay or concrete plugs shall be used so that underground hydraulic piping does not occur and de-water the site and adjacent wetlands. Failure to comply with this condition may result in additional compensatory mitigation.
14. Mitigation shall be completed prior to or concurrent with the wetland fill project and otherwise consistent with Mitigation Plan, Section 10, Vegetation Management.
15. The wetland enhancement area shall be graded to the elevations described in Mitigation Plan, Section 10 and Figures J-3.5 and J-3.6.
16. Prior to any site grading, the surveyed boundaries of the wetland mitigation area and the avoided wetlands shall be surrounded by silt fencing at all times during construction of the project. There shall be no heavy equipment in this area except during mitigation construction.

17. An as-built survey shall be provided to the Division of State Lands within 60 days of mitigation site grading.
18. The mitigation site shall be planted in types, numbers and zones described in Mitigation Plan, Plant Schedule (Figure J-3.5). No existing trees shall be removed within the wetland mitigation area. Any significant variation in the plant schedule shall be referred to the Division for approval prior to execution. In the event that Cottonwood does not volunteer in the mitigation area in numbers/density consistent with the reference site by the end of the 3rd year, the planting plan shall be supplemented with cottonwood plantings. Proposed numbers shall be provided to the Division for approval prior to execution.
19. Removal or control of invasive, non-native plant species shall be done by means including preliminary site grading, mowing, herbicide application and/or by-hand removal, as appropriate. Livestock grazing shall not be allowed in the mitigation area.
20. The mitigation site shall be irrigated as necessary to avoid water stress for two years after the completion of planting.
21. Large woody debris shall be placed at the mitigation site locations identified in the Mitigation Plan, Figure J-3.6.

Success Criteria

To be deemed successful, the mitigation areas shall meet the following success criteria:

22. Cover of planted herbaceous material and desirable native wetland recruits (FAC+ or wetter) in designated PEMc areas shall be at least 80% after the 3rd year (as measured by cover in representative plots) and remain at least 80% for the remainder of the monitoring period.
23. Survival of planted trees and shrubs (by species) shall be at least 80% for the duration of the monitoring period (as measured by total stem counts). Should cottonwood not volunteer into the mitigation area in numbers consistent with the reference site by year 3, remedial action shall be taken in consultation with the Division.
24. There shall be no more than 30 percent cover of non-native species at any time during the monitoring period.

25. Mitigation site micro-topography shall meet grading design per Mitigation Plan, Figures J-3.5 and J-3.6 and including large woody debris placement pursuant to Mitigation Plan, Figure J-3.6.
26. The mitigation site shall exhibit characteristics of PFO/PSS wetland (0.9 acres) and PEMc wetland (0.6 acres) consistent with Cowardin definitions for said wetland types by the end of the monitoring period.

Mitigation Monitoring

27. The permittee shall monitor the mitigation site to determine success for a minimum period of five (5) years. The annual monitoring report is due by December 31 of each year and shall include the following information:
 - Permit number, permittee's name, project name
 - Location of mitigation site: describe and show on current map.
 - Location of impact site
 - Description of all activities that have occurred on the mitigation site during the past year (i.e. grading, re-grading, planting, re-planting, weed eradication, etc.).
 - Documentation that success criteria are being met and statements regarding criteria listed in conditions 22 through 26, above.
 - Results of hydrologic monitoring to be conducted during early growing season including depth to saturation, extent of inundation and presence of secondary hydrologic indicators in the mitigation area.
 - Qualitative comparison/discussion of the mitigation site performance relative to the reference site.
 - Photographs from a minimum of three fixed photo-monitoring locations.
 - Recommendations for remedial or maintenance actions, as necessary
 - Other information necessary or required to document compliance with mitigation plan.

The monitoring period will start when the permittee has demonstrated that hydrology has been established and initial plantings have been accomplished. Failure to submit a monitoring report at the above date may result in an extension of the monitoring period and/or enforcement action.

Contingency

28. In the event that non-native plant cover exceeds 30% at any time during the monitoring period or less than 80% coverage/80% survival occurs in the emergent/shrub-tree area, the permittee shall submit to the Division, for

approval, a contingency plan describing specific actions and timeframes to return the site to design conditions.

29. Removal of the berm across the existing drainage channel shall only occur with the prior approval of the Division and shall be based on demonstration of successful hydrologic conditions and cover of desirable emergent species.

30. The Division retains the authority to extend the mitigation monitoring period and require corrective action in the event the success criteria are not accomplished for two consecutive years (without re-planting for failure to meet survival or cover criteria) within the 5-year monitoring period.

_____, 200_____

1 **II. DESCRIPTION OF PROPOSED FACILITIES**

2 The proposed energy facility will consist of two combustion turbine generators, two heat
3 recovery steam generators and two steam turbine generators. It will be located about seven
4 miles by road from the City of Clatskanie on about 19 acres of an 852-acre tract leased to
5 PGE and known as the Port Westward Industrial Park. The Port Westward Industrial Park is
6 zoned Resource Industrial Planned Development (“RIPD”).

7 The energy facility will be fueled by natural gas from the existing Kelso-Beaver (“K-B”)
8 pipeline, which passes within 1,000 feet of the energy facility site. An interconnecting
9 pipeline (about 18 inches in diameter) will be constructed below grade between the existing
10 K-B pipeline and the energy facility. The interconnecting pipeline will be located on the
11 852-acre tract leased by PGE and, therefore, within the RIPD zone.

12 Water will be supplied from raw river water drawn from an existing PGE intake structure on
13 Bradbury Slough under an existing Port of St. Helens water permit. The water intake
14 pipeline from the existing intake structure to the energy facility will be located below grade
15 on the 852-acre tract leased by PGE and, therefore, within the RIPD zone.

16 Process blowdown and cooling system blowdown will be discharged through a proposed Port
17 of St. Helens wastewater discharge system. The wastewater discharge pipeline lateral
18 connecting the energy facility to the Port’s wastewater discharge system will be located
19 below grade on the 852-acre tract leased by PGE and, therefore, within the RIPD zone.
20 Sanitary sewage will be routed to a disposal system consisting of a septic tank and leachfield
21 on the energy facility site.

22 PGE will also be using an approximately 6-acre construction staging area temporarily during
23 construction. The staging area will be southwest of the existing water intake structure and
24 within the RIPD zone. The area was previously developed and now has a gravel surface.
25 No additional grading or gravel will be necessary. PGE will install lighting and fencing, and
26 may place a construction trailer in the area. The area will be returned to its current condition
27 upon completion of construction.

28 PGE has requested Council approval to construct either of two alternative transmission line
29 routes. The energy facility will deliver power to the regional power grid at the Bonneville
30 Power Administration’s (“BPA”) Allston Substation near Alston, Oregon, (“Allston option”)
31 or at PGE’s Trojan Nuclear Plant near Goble, Oregon (“Trojan option”). The Allston option
32 will require construction of about nine miles of transmission line on new towers within the
33 existing corridor from the Beaver Generating Plant (also located at Port Westward Industrial
34 Park) to the vicinity of the BPA Allston Substation. The existing easement is 250 feet wide.
35 The existing transmission line requires 125 feet. The proposed line will use the remaining
36 125 feet. The new line will require the placement of new transmission towers, which will
37 carry two 230 kV circuits to accommodate the lines for both this project and the
38 Summit/Westward Project (“Summit”). Summit’s circuits on the transmission line will
39 interconnect to a bay on the east side of the BPA Allston Substation (“Summit
40 interconnection”). The Summit interconnection will require a new corridor in the vicinity of
41 the substation. The entire route of the Allston option is within the land use jurisdiction of
42 Columbia County.

1 The Trojan option will require construction of about nineteen miles of new transmission line
2 on new towers. The first segment will be the same as that described above with respect to
3 the Allston option. Before reaching the BPA Allston Substation, however, the new line will
4 leave the existing corridor and bypass the BPA Allston Substation. The remainder of the line
5 will require establishment of a new right-of-way between the BPA Allston Substation and
6 Trojan Nuclear Plant, which will be parallel and immediately adjacent to the existing BPA
7 right-of-way, and placement of new transmission towers.² Although most of the route of the
8 Trojan option is within Columbia County's land use jurisdiction, about 1.5 miles of the
9 second segment of the Trojan option (i.e. between the BPA Allston Substation and Trojan
10 Nuclear Plant) will be within the City of Rainier's land use jurisdiction.

11 Under either routing alternative, the transmission line will pass through five land use zones
12 within Columbia County: Resource Industrial Planned Development (RIPD), Primary
13 Agriculture (PA-38), Forest Agriculture (FA-19), Primary Forest (PF-76), and Rural
14 Residential (RR-5). The Trojan option would also pass through the City of Rainier's
15 Watershed (W) zone.

16 **III. COLUMBIA COUNTY LAND USE REGULATIONS**

17 The energy facility and the water intake pipeline, wastewater discharge pipeline, gas
18 pipeline, and construction staging area are located entirely within Columbia County's
19 planning jurisdiction. The transmission line is primarily within the County's planning
20 jurisdiction. As a result, these facilities will be subject to the provisions of the Columbia
21 County Zoning Ordinance ("CCZO"). The applicable regulations are those that were in
22 effect in August 2001, when PGE submitted its ASC.

23 **A. RESOURCE INDUSTRIAL PLANNED DEVELOPMENT (RIPD) ZONE**

24 The energy facility and the gas pipeline, water intake pipeline, wastewater discharge
25 pipeline, and construction staging area will be located entirely within the County's RIPD
26 zone. In addition, the first 1.5 miles of the transmission line corridor under both routing
27 options and about 3,600 feet of the transmission line corridor under the Trojan option (just
28 before it connects to the Trojan Nuclear Plant) will be located within the County's RIPD
29 zone.

30 CCZO § 683 provides that:

31 The following uses may be permitted subject to the conditions imposed for each use:

32 .1 Production, processing, assembling, packaging, or treatment of materials; research and
33 development laboratories; and storage and distribution of services and facilities subject to
34 the following findings:

35 The proposed energy facility is permitted subject to the prescribed conditions because it is a
36 use that involves the production of electricity through processing a material (natural gas), as
37 well as the distribution of that electricity as a service. The construction staging area is an

² PGE has requested approval to locate the new corridor on either the north or south side of the existing BPA corridor. This discussion encompasses construction on either side of the existing corridor.

1 accessory to that use. The other related and supporting facilities are also permitted under
2 prescribed conditions within the RIPD zone. The three pipelines are each uses that facilitate
3 the production of electricity. The transmission line distributes that electricity. In 2001, the
4 Beaver Generating Plant applied for an expansion, which Columbia County approved as an
5 expansion to a facility for “storage and distribution of services.” (That expansion is also
6 known as “Beaver 8.” In Attachment D, references to the Beaver Generating Plant apply to
7 the whole facility.) For these reasons, the Project is a conditional use in the RIPD zone.
8 CCZO § 685 provides that all requests made pursuant to CCZO § 683 are subject to the
9 criteria in:

- 10 . CCZO §681 (Purpose);
- 11 . CCZO §683 (Uses Permitted Under Prescribed Conditions);
- 12 . CCZO § 684 (Standards); and
- 13 . CCZO § 1503 (Conditional Uses).³

14 In addition, because PGE is seeking a variance with respect to the fencing, parking, and
15 loading standards, PGE must satisfy the variance standards in CCZO § 1504.⁴

16 **CCZO § 681 Purpose:**

17 The purpose of this district is to implement the policies of the Comprehensive Plan
18 for Rural Industrial Areas. These provisions are intended to accommodate rural and
19 natural resource related industries, which:

20 .1 Are not generally labor intensive;

21 The energy facility will employ about 25 employees during plant operations. Therefore, it is
22 not a labor-intensive operation. The related and supporting facilities will require periodic
23 maintenance and monitoring, but will not require additional employees and are therefore not
24 labor intensive.

25 .2 Are land extensive;

26 The energy facility site will encompass about 19 acres and is, therefore, a land-extensive use.
27 Although the primary reason for locating a 1.5 mile segment of the transmission line in the
28 RIPD zone is to allow connection with the energy facility, that 1.5 mile segment of the
29 transmission line is itself a land-extensive use. Similarly, although the primary reason for
30 locating a 3,600 foot segment of the Trojan option in the RIPD zone is to allow connection
31 with the Trojan Nuclear Plant (which is itself located in the RIPD zone), that 3,600 foot
32 segment is also land extensive.

³ Unless otherwise noted, the discussion of the energy facility also pertains to and justifies the siting of the water supply, wastewater discharge, and natural gas pipelines, as well as the construction staging area, all of which are located on the tract leased by PGE and within the RIPD zone.

⁴ CCZO standards applicable in all zones are addressed separately in Section III.C., below.

1 .3 Require a rural location in order to take advantage of adequate rail and/or vehicle
2 and/or deep water port and/or airstrip access;

3 The energy facility requires a rural location to use the Columbia River and Bradbury Slough
4 as a water source, and to take advantage of the existing facilities, including the existing
5 intake structure on the Columbia River/Bradbury Slough and the natural gas pipeline. The
6 site also affords access to the Burlington Northern and Santa Fe Railway Astoria-to-Portland
7 branch line and an existing dock on the Columbia River, which will be used during
8 construction or operation. The transmission line is not itself dependent upon the rural
9 location. The transmission line is, however, a necessary component of the proposed energy
10 facility, which is itself locationally dependent.

11 .4 Complement the character and development of the surrounding rural area;

12 The energy facility will be located in the Port Westward Industrial Park. The exception
13 statement for the Port Westward tract in the County's Comprehensive Plan reflects that the
14 anticipated uses of the area would be industrial in nature and take advantage of the existing
15 services, including the proximity to the river. Examples listed in the Plan include an oil
16 refinery, a coal port, and a petrochemical tank farm. The primary existing use at the Port
17 Westward Industrial Park is another energy facility (the Beaver Generating Plant). The
18 available infrastructure includes a dock on the Columbia River, a water intake system,
19 railroad tracks, and a natural gas pipeline. The proposed energy facility will use this existing
20 infrastructure during construction and/or operation. Therefore, the energy facility use will
21 complement the existing character and development of the area.

22 Rural uses surrounding the Port Westward tract are primarily limited to traditional
23 agricultural uses. The proposed energy facility site is in the northern portion of the Port
24 Westward tract between the Beaver Generating Plant and the Columbia River. It is roughly
25 equidistant from the eastern and western boundaries of the tract. Thus, there will be a buffer
26 between the energy facility and any agricultural or residential uses in the surrounding rural
27 area. The closest area currently in agricultural use is about 0.75 miles south of the energy
28 facility proper. The water supply pipeline will extend southeast roughly 0.75 miles to the
29 water intake structure. The staging area will be located roughly 0.75 miles southeast of the
30 energy facility. It will be temporary. The closest dwelling is located southeast of the
31 proposed site and about 3,600 feet from the boundary of the Port Westward tract. As a result,
32 the energy facility will not impact agricultural or residential uses surrounding the Port
33 Westward tract.

34 The transmission line and associated towers also complement the existing development in the
35 area by taking advantage of space available in the existing transmission corridor connecting
36 Port Westward to the BPA Allston Substation. Adding a new transmission line in this
37 existing corridor will not alter the character and development of the area. Similarly, a new
38 transmission line near the Trojan Nuclear Plant line will be consistent with and complement
39 the character and development in that area, which includes the Trojan Nuclear Plant and
40 associated office buildings, as well as a series of other transmission lines that connect to the
41 substation there.

1 .5 Are consistent with the rural facilities and services existing and/or planned for the
2 area; and

3 The energy facility use is consistent with existing or planned facilities and services. Process
4 water will be provided from the existing PGE intake structure on Columbia River/Bradbury
5 Slough under water rights held by the Port of St. Helens. PGE will construct a short gas
6 pipeline lateral to connect the energy facility to the existing K-B gas pipeline. The Port of St.
7 Helens will build a separate industrial wastewater system to serve all Port Westward
8 industries. The energy facility will use a new on-site septic system. The energy facility will
9 also have an on-site fire protection system. The Clatskanie Drainage District will continue to
10 handle storm water drainage. The transmission lines themselves will not require any rural
11 services.

12 .6 Will not require facility and/or service improvement at significant public expense.

13 The energy facility will rely upon existing or new on-site facilities and services as described
14 in discussion of CCZO § 681.5, above. Any necessary expansion to the on-site service
15 systems will be borne by PGE. The energy facility will have an on-site fire protection
16 system and will not impose significant expense on the public generally or the Clatskanie
17 Rural Fire Department in particular. Installation of new transmission line and poles will not
18 require any additional services or facility improvements that will cause any public expense.
19 Concerns have been raised regarding potential impacts to area roads and levees. PGE will
20 mitigate this impact in part by using alternative delivery methods (barge and rail). In
21 addition, PGE and the County have entered into an agreement by which PGE has agreed to
22 pay for its share of a set of public transportation improvements identified by the County and
23 Port Westward developers. The County has since confirmed that the planned improvements
24 and agreed upon funding satisfy the County's Comprehensive Plan and Zoning Ordinance.
25 (See Section D.13 of the Order.)

26 The uses contemplated for this district are not appropriate for location within Urban
27 Growth Boundaries due to their relationship with the site-specific resources noted in
28 the Plan and/or due to their hazardous nature.⁵

29 The energy facility will rely on several site-specific resources and facilities, including water
30 from the Columbia River and Bradbury Slough, the existing water intake structure, the K-B
31 pipeline, the Burlington Northern and Santa Fe Railway Astoria-to-Portland branch line and
32 the existing dock on the Columbia River. Although placement of the transmission line is
33 generally dictated by the rural location of the energy facility, PGE will use a site-specific
34 resource (namely, the remaining width in existing PGE transmission corridor) to minimize
35 impacts associated with a new transmission line to the BPA Allston Substation. Similarly,
36 the location of the RIPD-zoned segment of the Trojan option is dictated by the location of the
37 Trojan Nuclear Plant, which is itself outside the urban growth boundary.

⁵ This standard appears, unnumbered, in CCZO § 681.

1 **CCZO § 683 Uses Permitted Under Prescribed Conditions:**

2 CCZO § 683.1

3 A. The requested use conforms with the goals and policies of the Comprehensive
4 Plan — specifically those policies regarding rural industrial development and
5 exceptions to the rural resource land goals and policies.

6 The County’s Comprehensive Plan provides that the goal of the Resource Development
7 zoning designation is "to provide for industrial development on rural lands when such
8 development can be shown to support, use, or in some manner be dependent upon the natural
9 resources of the area." The Port Westward Exception Statement provides that the Rural
10 Industrial designation at Port Westward “is intended to take advantage of the location on the
11 Columbia River, the existing dock facilities, railroad, and urban services.” The gas pipeline
12 is listed as one of the existing facilities available at the site.

13 The energy facility fulfills the Comprehensive Plan goal because it is an industrial use that is
14 dependent on the Columbia River and the Bradbury Slough as a water source. It fulfills the
15 purpose of the exception by taking advantage of its proximity to the Columbia River, existing
16 K-B pipeline, and existing rail and dock facilities, and the opportunity to locate a heavy
17 industrial use away from potentially incompatible uses within an urban area. As an integral
18 part of the energy facility, the transmission line also complies with both the Comprehensive
19 Plan policies regarding rural industrial development and the exception statement for the Port
20 Westward tract.

21 Policy 3 of the Resource Industrial Development section of the Comprehensive Plan provides
22 that industrial development on lands zoned RIPD should be restricted to uses that meet the
23 criteria in CCZO § 681. For the reasons outlined above with respect to CCZO § 681, the
24 energy facility and transmission line meet each of these criteria.⁶

25 B. The potential impact upon the area resulting from the proposed use has been
26 addressed and any adverse impact will be able to be mitigated considering the
27 following factors:

28 .1 Physiological characteristics of the site (i.e., topography, drainage, etc.) and the
29 suitability of the site for the particular land use and improvements;

⁶ The Comprehensive Plan RIPD section appears to identify one additional factor:

“G. Are not appropriate for location within Urban Growth Boundaries due to their hazardous nature.”

We construe this criteria as offering an alternative basis for siting a use on rural RIPD-zoned land, rather than an additional criterion, particularly in light of the use of “or” between factors F and G and the way in which this factor is phrased in CCZO § 681. Further, the Port Westward exception statement notes the appropriateness of the area for “uses which are ‘hazardous or incompatible with densely populated areas.’”

1 The energy facility site is well-suited for a 19-acre energy facility development for the
2 reasons noted above. The site is predominantly flat with slopes of less than three percent. It
3 is also located within the Beaver Drainage District and is therefore well drained. The energy
4 facility and the corridor for the water intake pipeline were located so as to minimize impacts
5 on wetlands. No wetlands are impacted by the location of the wastewater discharge or gas
6 pipelines or by the construction staging area. The alignment for the initial 1.5-mile segment
7 of the transmission line is well-suited for that use because it takes advantage of the existing
8 transmission corridor. The alignment for the RIPD-zoned segment of the Trojan option is
9 also well-suited to that use because the Trojan Nuclear Plant is itself in the RIPD zone and
10 because the new transmission line will be located immediately adjacent to the existing BPA
11 line. The existing PGE Port Westward to BPA Allston Substation line and BPA Allston
12 Substation to Trojan lines have operated without problems since their installation in the early
13 1970s.

14 .2 Existing land uses and both private and public facilities and services in the area;

15 The energy facility will be part of the existing Port Westward Industrial Park. Existing land
16 uses and facilities include the Beaver Generating Plant, transmission lines, a 1,250-foot dock
17 adjacent to the Columbia River, railroad tracks, a 1.3-million barrel tank farm, a water supply
18 system that draws from the Bradbury Slough, and the K-B gas pipeline. The existing land
19 uses and facilities in the vicinity of the initial 1.5-mile segment of the transmission line
20 would be the same. Given their industrial nature, the existing uses are not sensitive to the
21 impacts of the energy facility or transmission line and there should be no adverse impact.
22 Existing land uses and facilities in the area of the about 3,600 foot segment of the
23 transmission line crossing RIPD-zoned land under the Trojan option include the existing
24 BPA transmission corridor and the Trojan Nuclear Plant. Again, given their industrial
25 nature, the existing uses are not sensitive to the impacts of the energy facility and there
26 should be no adverse impact.

27 Due to the existing development on the Port Westward tract, the area already receives most
28 of the necessary services. As fully described in response to CCZO §681.5 and .6, the energy
29 facility will rely on existing facilities or new on-site facilities, and will not adversely impact
30 services in the area. The County and PGE have identified transportation improvements and
31 other measures needed to mitigate transportation impacts and have executed an agreement
32 addressing financing of the identified improvements, as noted above.

33 .3 The demonstrated need for the proposed use is best met at the requested site
34 considering all factors of the rural industrial element of the Comprehensive Plan.

35 The factors of the rural industrial element of the County's Comprehensive Plan are addressed
36 in response to CCZO §§ 681 and 683.1.A., above. The energy facility site is a good location
37 given its proximity to an existing water source, an interstate natural gas pipeline, an electric
38 transmission corridor, and an existing electric generating plant, as well as access to existing
39 rail and dock facilities. The location of the site and its commitment to industrial uses will
40 minimize the likelihood of adverse impact on any incompatible uses. Both RIPD-zoned
41 segments of the transmission line are locationally dependent. The initial 1.5-mile segment
42 must interconnect with the energy facility and the 3,600-foot segment crossed under the

1 Trojan option must interconnect with the Trojan Nuclear Plant, both of which are located on
2 RIPD-zoned land.

3 C. The requested use can be shown to comply with the following standards for available
4 services:

5 .1 Water shall be provided by an on-site source of sufficient capacity to serve the
6 proposed use, or a public or community water system capable of serving the
7 proposed use.

8 The Port of St. Helens holds a water right allowing for diversion of up to 30 cubic feet per
9 second (“cfs”) from the Columbia River/Bradbury Slough for municipal and industrial use.
10 Water will be supplied to the energy facility via the existing PGE intake structure on the
11 Columbia River/Bradbury Slough, which is an authorized point of diversion under the Port's
12 water right. PGE will contract with the Port for about 8.3 cfs of the Port's existing water
13 right. The record includes a letter from the Port confirming that it will contract with PGE to
14 use this water. The transmission line will not require a water supply.

15 .2 Sewage will be treated by subsurface sewage system, or community or public
16 sewer system, approved by the County Sanitation and/or the State DEQ.

17 Sanitary sewage will be routed to a disposal system consisting of a septic tank and leach field
18 on the energy facility site. The system will be appropriately sized to serve the permanent
19 employees of the energy facility. PGE will obtain a Water Pollution Control Facilities
20 (“WPCF”) permit from DEQ for this system, as directed by the Council in this Order. The
21 transmission line will not require such services.

22 .3 Access will be provided to a public right-of-way constructed to standards capable
23 of supporting the proposed use considering the existing level of service and the
24 impacts caused by the planned development.

25 Access to the eastern portion of the Port Westward tract is provided via Kallunki Road, a
26 public right-of-way. A private road extends from the boundary of the Port Westward tract
27 directly to the site. Kallunki Road is capable of supporting all traffic that will be generated
28 by the operation of the energy facility. PGE has proposed measures to mitigate
29 transportation impacts during construction of the energy facility. As noted above, the County
30 and PGE have identified improvements and mitigation measures needed to address
31 transportation-related impacts and have entered into an agreement by which PGE will be
32 funding its share of the cost of those improvements. No improvements are planned or needed
33 on the private section of the road. The transmission line will not require access to a public
34 right-of-way.

35 .4 The property is within, and is capable of being served by, a rural fire district; or,
36 the proponents will provide on-site fire suppression facilities capable of serving the
37 proposed use. On-site facilities shall be approved by either the State or local Fire
38 Marshal.

1 The energy facility will use an approved on-site, high-pressure fire protection system. The
2 energy facility site is also served by the Clatskanie Rural Fire Department. With on-site fire
3 suppression facilities, the services of the Department will be adequate to meet the needs of
4 the energy facility. The transmission line will not require such services. The transmission
5 line will, however, have a safety corridor of 125 feet and the area will be kept cleared as
6 required by applicable safety standards, including the National Electrical Safety Code.

7 **CCZO § 683.3 Signs as provided in Chapter 1300.**

8 CCZO § 1300 regulates the establishment, alteration, or expansion of any sign in any district
9 in Columbia County. CCZO § 1313 provides the specific standards for signs in commercial
10 and industrial districts. Signage on an energy facility typically is for identification, security
11 or safety purposes, rather than for advertising, and therefore is sized only to be visible to
12 those who need to see it. PGE has not designed its signage yet, but has committed to comply
13 with all of the applicable standards for industrial districts.

14 **CCZO § 683.4 Off street parking and loading as provided in Chapter 1400.⁷**

15 For a manufacturing use, CCZO § 1416.5 requires one parking space per employee on the
16 largest shift. PGE has provided a preliminary arrangement for parking. It shows 29 parking
17 spaces, including a handicapped accessible space. That is more than sufficient, given that the
18 energy facility is expected to have about 25 employees divided among 3 shifts. As discussed
19 above, specific requirements for dimensions of parking places and aisles, as well as
20 accessible parking and parking lot landscaping will be addressed in a plot plan prior to
21 issuance of building permits. PGE seeks a variance from the loading space requirements as
22 more fully described in the discussion of CCZO § 1504, below.

23 **CCZO § 684 Standards:**

24 .1 The minimum lot or parcel size for uses allowed under Section 682 shall be 38 acres.

25 This criterion is not applicable. The facility is allowed under CCZO § 683.

26 .2 The minimum lot or parcel size, average lot or parcel width and depth, and setbacks for
27 uses allowed under Section 683, shall be established by the Planning Commission and
28 will be sufficient to support the requested rural industrial use considering, at a
29 minimum the following factors:

30 A. Overall scope of the project. Should the project be proposed to be developed in
31 phases, all phases shall be considered when establishing the minimum lot size.

32 B. Space required for off-street parking and loading and open space, as required.

33 C. Setbacks necessary to adequately protect adjacent properties.

⁷ CCZO §§ 683.2 and 683.5 pertain to accessory buildings and home occupations, respectively. Neither is applicable to the proposed use.

1 The energy facility will be located on about 19 acres of the 852-acre Port Westward tract
2 leased by PGE. PGE is not proposing to develop the energy facility in phases. The 19-acre
3 site provides adequate space for all site improvements and incorporates setbacks from any
4 potential surrounding uses. These factors are not applicable to the buried pipelines. The
5 temporary staging area is set back from adjacent properties. The other factors are not
6 applicable to the staging area. The transmission line will traverse multiple parcels. These
7 factors are not applicable to the transmission line.

8 .3 Access shall be provided to a public right-of-way of sufficient construction to support
9 the intended use, as determined by the County Roadmaster.

10 An existing county road, Kallunki Road, provides access to the Port Westward tract. This
11 road is capable of supporting all traffic that would be generated by the operation of the
12 energy facility. PGE and the County have identified improvements and mitigation measures
13 needed to address transportation-related impacts during construction and have entered into an
14 agreement by which PGE will be funding its share of those improvements. The transmission
15 line will not require access to a public right-of-way.

16 **CCZO § 1503 Conditional Uses:**

17 Pursuant to CCZO § 1503.5, PGE must demonstrate that the proposed use also satisfies the
18 following criteria:

19 A. The use is listed as a Conditional Use in the zone which is currently applied to the
20 site;

21 The energy facility is permitted subject to the prescribed conditions because it is a use that
22 involves the production of electricity through the processing of a material (natural gas) as
23 well as the distribution of that electricity as a service. The construction staging area is an
24 accessory to the energy facility use. The other related and supporting facilities are also
25 permitted under prescribed conditions within the RIPD zone. Each of the three pipelines
26 facilitates the production of electricity. The transmission line distributes that electricity.

27 B. The use meets the specific criteria established in the underlying zone;

28 The energy facility and transmission line satisfy the applicable criteria in the RIPD zone
29 (CCZO §§681, 683 and 684), as described above.

30 C. The characteristics of the site are suitable for the proposed use considering size,
31 shape, location, topography, existence of improvements, and natural features;

32 The site is suitable for an energy facility for the reasons discussed above with respect to
33 CCZO §§681, 683 and 684. The transmission corridors are suitable for transmission lines for
34 the reasons discussed above with respect to CCZO §§ 681, 683 and 684.

35 D. The site and proposed development is timely, considering the adequacy of
36 transportation systems, public facilities, and services existing or planned for the area
37 affected by the use;

1 The energy facility is timely considering the adequacy of the transportation systems, public
2 facilities, and services existing or planned for the area, as fully described in the discussion
3 under CCZO §§ 681, 683, 684. The construction of the transmission line between the energy
4 facility and BPA Allston Substation is timely in light of the space available in the existing
5 transmission corridor. The connection to the Trojan Nuclear Plant is also timely because it
6 currently has capacity for the interconnection of the new 230-kV line.

7 E. The proposed use will not alter the character of the surrounding area in a manner,
8 which substantially limits, impairs, or precludes the use of surrounding properties
9 for the primary uses listed in the underlying district;

10 Permitted uses in the RIPD zone include farm use and the management, production and
11 harvesting of forest products. Uses allowed under prescribed conditions include industrial
12 uses such as the production and processing of materials, laboratories, or storage and
13 distribution of services. The Port Westward Exception Statement in the County's
14 Comprehensive Plan designates this area as being appropriate for industrial uses. The only
15 existing industrial use on the Port Westward tract is another power generating facility, the
16 Beaver Generating Plant, which occupies about 120 acres. The energy facility will be
17 located directly north of the existing plant and is consistent with this existing use. The
18 staging area will be located in a graveled area southeast of the energy facility near the
19 existing water intake structure and about 300 feet from the PA-38 zone.

20 The undeveloped portion of the Port Westward tract is used as a pasture. The energy facility
21 will, however, be located in the northern portion of the tract, between the existing Beaver
22 Generating Plant and the Columbia River. As such, it will be separated from this use by a
23 sufficient distance to prevent negative impacts.

24 The uses surrounding the Port Westward tract primarily consist of traditional agricultural
25 uses. The closest agricultural uses are grazing and cultivation of mint. There are also a few
26 dwellings within the general vicinity (the closest being southeast of the energy facility and
27 about 3600 feet boundary of the 892-acre Port Westward tract). The energy facility's
28 distance from the surrounding agricultural zone ensures that it will not substantially limit,
29 impair or preclude future uses on those properties. PGE has committed to mitigation
30 measures related to visual impacts (e.g. paint color, lighting) and noise impacts (e.g. plant
31 design, delivery by barge). Similarly, the staging area will be in a developed area about
32 300 feet from the closest PA-38 zone. Temporary use of the staging area during construction
33 is wholly consistent with the industrial uses in the surrounding area and will not alter the
34 character of the surrounding agricultural area in a manner that limits, impairs, or precludes
35 agricultural use of the area properties zoned for or developed with agricultural uses.

36 Existing land uses adjacent to the portion of the transmission line corridor from Port
37 Westward to the BPA Allston Substation also include the Beaver Generating Plant, farms,
38 forest uses, and rural residences, as well as the existing PGE transmission lines. The
39 easement for the existing corridor already precludes encroachment by incompatible uses.
40 The new transmission line will not alter the character of the surrounding area in a manner
41 that would limit or preclude any existing or future farming or forestry operations in the
42 surrounding area beyond the limitations that already exist by virtue of the industrial character
43 of the Port Westward Industrial Park and the existing transmission corridor.

1 Existing land uses adjacent to the second segment of the Trojan option (the section of the
2 transmission line from BPA Allston Substation to the Trojan Nuclear Plant) include the
3 existing BPA transmission line from Trojan to the BPA Allston Substation and the PGE
4 Harborton line, City of Rainier watershed, PGE Trojan Park (private), and the Trojan Nuclear
5 Plant (undergoing decommissioning). Consequently, the character of the surrounding area is
6 already partially defined by transmission lines and corridors. An additional line and corridor
7 would not alter that character and would not impede future uses that are consistent with the
8 existing industrial character of the area.

9 F. The proposal satisfies the goals and policies of the Comprehensive Plan, which apply
10 to the proposed use;

11 The applicable Comprehensive Plan goals and policies as identified by the County are
12 addressed in Section IV, below.

13 G. The proposal will not create any hazardous conditions.

14 PGE will be required to follow all applicable safety laws and regulations in constructing and
15 operating the energy facility, including those related to natural gas pipeline safety and fire
16 safety. (See Sections D.13 and E.1.c of the Order.)

17 PGE will also meet all applicable standards for construction and operation of the
18 transmission line and will consult with the appropriate local fire districts and agencies to
19 ensure that all necessary safety precautions are taken. (See Sections D.13 of the Order.)

20 **B. FARM, FOREST AND RESIDENTIAL ZONES**

21 In addition to RIPD, the transmission line will pass through land zoned by Columbia County
22 as Primary Agriculture (PA-38), Forest Agriculture (FA-19), Primary Forest (PF-76), and
23 Rural Residential (RR-5). The Summit interconnection will pass through land zoned PF-76
24 and FA-19.

25 **1. COLUMBIA COUNTY PRIMARY AGRICULTURE (PA-38) ZONE**

26 After leaving the RIPD zone, the existing Port Westward to BPA Allston Substation
27 transmission corridor (in which the new transmission line would be located under either the
28 Allston or Trojan Option) crosses property zoned PA-38. Pursuant to CCZO § 303.8,
29 “facilities necessary for public utility service” are allowed as conditional uses in the PA-38
30 zone. The proposed transmission line is a facility necessary for public utility service. As
31 such, it is subject to the standards in:

- 32 . CCZO § 304 (Standards);
- 33 . CCZO § 306 (Special Notice Requirements); and
- 34 . CCZO § 1503 (Conditional Uses).

35 A variance will also be required under CCZO § 1504.

1 **CCZO § 304 Standards:**⁸

2 .6 No structure shall be constructed closer than 30 feet to a property line.

3 PGE will not place towers closer than 30 feet from a property line in the PA-38 zone.

4 .7 Unless otherwise prohibited, the maximum building height for all non-farm, non-
5 forest structures shall be 50 feet or 2-1/2 stories, whichever is less. Unless
6 otherwise prohibited, structures such as barns, silos, windmills, antennas,
7 chimneys or similar structures may exceed the height limitations to a maximum
8 height of 50 feet.

9 The transmission towers will be about 120 feet high. This exceeds the 50-foot limit for non-
10 farm, non-forest structures. The towers located within the PA-38 zone qualify for a variance
11 from the height limitation described in the discussion of CCZO § 1504, below.

12 **CCZO § 306 Special Notice Requirements:**

13 .1 The County Agricultural Extension office and the Soil and Water Conservation
14 Service shall be notified of all requests made under Section 303 and 305 of this
15 chapter. These two agencies will be given 10 working days to comment on such
16 requests.

17 The transmission line is a conditional use under CCZO § 303. The requirement for notice
18 and opportunity to comment is met by the notice and comment period of at least 20 days for
19 the Office of Energy's Draft Proposed Order, required by OAR 345-015-0220. The Office
20 sent notice of the Draft Proposed Order to the County Agricultural Extension office and the
21 Soil and Water Conservation Service

22 **CCZO § 1503 Conditional Uses:**

23 Pursuant to CCZO § 1503.5, PGE must demonstrate that the proposed use also satisfies the
24 following criteria:

25 A. The use is listed as a Conditional Use in the zone which is currently applied to the
26 site;

27 The transmission line is a conditional use in the PA-38 zone because it is a facility necessary
28 for public utility service.

29 B. The use meets the specific criteria established in the underlying zone;

30 As described above, the transmission line satisfies the criteria established for the PA-38 zone
31 as set forth in CCZO §§ 303, 304 and 306 (with the exception of the height limitation in
32 CCZO § 304.7, which is addressed further below).

⁸ The standards in CCZO §§ 304.1 through 304.6 were not identified by the County as applicable substantive criteria. CCZO §§ 304.1 through 304.5 are not applicable because the transmission line will not require a land division or change in parcel dimensions. PGE has committed to comply with the 30 foot setback requirement in CCZO § 304.6.

1 C. The characteristics of the site are suitable for the proposed use considering size,
2 shape, location, topography, existence of improvements, and natural features;

3 No new right-of-way will be created in the PA-38 zone to meet transmission needs of the
4 energy facility. The transmission line alignment is suitable because it is within the existing
5 transmission corridor, which is currently in use for a similar transmission line. The existing
6 transmission line has operated without problems since its installation in the early 1970s.

7 D. The site and proposed development is timely, considering the adequacy of
8 transportation systems, public facilities, and services existing or planned for the
9 area affected by the use;

10 The development is timely because the corridor currently has capacity to accept another line.
11 No transportation systems, public facilities, or services are required for or a affected by the
12 additional transmission line.

13 E. The proposed use will not alter the character of the surrounding area in a manner
14 which substantially limits, impairs, or precludes the use of surrounding properties
15 for the primary uses listed in the underlying district;

16 Permitted uses in the PA-38 zone include farm use, the propagation or harvesting of forest
17 products, farm dwellings, farm buildings, and exploration and production of geothermal
18 resources. Conditional uses include limited commercial activities, mining, schools,
19 community centers, golf courses, parks, personal use airports, and home occupations. The
20 current character of the surrounding area includes farms, forest uses, and rural residences, as
21 well as the existing Port Westward to BPA Allston Substation corridor and transmission
22 lines. PGE holds an easement for the existing corridor, which already prevents
23 encroachment by uses incompatible with overhead transmission lines. Most farming
24 activities can, however, continue within the transmission corridor. Two additional overhead
25 circuits and associated towers within the boundaries of that corridor will have a little of no
26 effect on surrounding uses.

27 F. The proposal satisfies the goals and policies of the Comprehensive Plan which
28 apply to the proposed use;

29 The applicable Comprehensive Plan goals and policies as identified by the County are
30 addressed in Section IV, below.

31 G. The proposal will not create any hazardous conditions.

32 PGE is required to comply with all applicable safety standards for the new transmission line
33 and consult with the appropriate local fire districts and agencies to ensure that all necessary
34 safety precautions are taken. (See Section D.13 of the Order.)

35 **2. COLUMBIA COUNTY FOREST AGRICULTURE-19 (FA-19) ZONE**

36 The existing Port Westward to BPA Allston Substation transmission corridor (in which the
37 new transmission line will be located under either routing alternative) crosses a single parcel
38 zoned FA-19. The Summit interconnection also crosses land zoned FA-19 along the east

1 side of the BPA Allston Substation. Pursuant to CCZO § 404.7, the transmission lines are a
2 conditional use in the FA-19 zone because they are each a "facility necessary for public
3 utility service." As a conditional use, the transmission lines are subject to the following
4 sections of the zoning ordinance:

- 5 · CCZO § 405 (Conditional Uses Permitted in the FA-19 Zone);
- 6 · CCZO § 407 (Standards); and
- 7 · CCZO § 1503 (Conditional Uses).

8 A variance will also be required under CCZO § 1504.

9 **CCZO § 405 All Conditional Uses Permitted in the FA-19 Zone:**

- 10 .1 The use will not significantly increase the cost, nor interfere with accepted forest
11 management practices or farm uses on adjacent or nearby lands devoted to forest or
12 farm use.

13 The transmission line will be placed within the existing Port Westward to BPA Allston
14 Substation corridor. An additional transmission line within that corridor will not impose
15 additional costs on or create new constraints for farm or forest practices in the area. The
16 easement for the existing corridor already prevents encroachment by uses incompatible with
17 overhead transmission lines. Thus, uses incompatible with transmission lines could not be
18 located in the corridor, whether or not the new transmission line is constructed. Farming can
19 generally continue under overhead transmission lines, however. Aerial spraying is already
20 limited by the existing transmission facilities within the corridor. Some clearing of brush and
21 immature trees is anticipated to be necessary within the transmission corridor, but forestry
22 activities outside the corridor would not be affected.

23 The Summit interconnection will be in a new corridor that passes under (west to east) and
24 parallels (north to south) existing BPA and PGE transmission lines. Open areas crossed by
25 the interconnection are owned by the United States and do not appear to be under cultivation.
26 Forestry use is already constrained by the presence of the substation and numerous
27 transmission lines, as well as the presence of wetlands.

- 28 .2 The use shall be limited to a site no larger than necessary to accommodate the activity
29 and, as such will not materially alter the stability of the overall land use pattern of the
30 area or substantially limit or impair the permitted uses of surrounding properties. If
31 necessary, measures will be taken to minimize potential negative effects on adjacent
32 forestlands.

33 The existing land use pattern includes farms and forest uses. The transmission line will be
34 located in the remaining 125 feet of an existing corridor adjacent to existing transmission
35 facilities. PGE holds an easement for the transmission corridor, preventing interference with
36 transmission facilities. Thus, uses incompatible with the transmission line could not be
37 located in the corridor, whether or not the new transmission line is constructed. Similarly,
38 the interconnection at the BPA Allston Substation is located in an area already dominated by

1 existing transmission facilities, substantially limiting the amount of additional land affected
2 by the interconnection. Moreover, farm activities generally can continue under overhead
3 transmission lines and any constraints (such as limitations on aerial spraying) already exist
4 by virtue of the existing transmission facilities within the corridor. The National Electrical
5 Safety Code requires a cleared buffer within the corridor to separate the transmission line
6 from any adjacent forestlands. The cleared area minimizes any potential negative effects on
7 adjacent forestlands. As a result, the transmission lines will neither alter the stability of the
8 farm and forest land use pattern of the area, nor substantially limit or impair farm and forest
9 uses on surrounding properties.

10 .3 The use does not constitute an unnecessary fire hazard, and provides for fire safety
11 measures in planning, design, construction, and operation.

12 The transmission line will not constitute an unnecessary fire hazard. As with the existing
13 transmission line, the new transmission line and interconnection will have a safety corridor of
14 125 feet surrounding the line. PGE will continue to keep this area cleared, pursuant to
15 applicable safety standards.

16 .4 Public utilities are to develop or utilize rights-of-way that have the least adverse
17 impact on forest resources. Existing rights-of-way are to be utilized whenever
18 possible.

19 PGE has satisfied this criterion by using capacity available in the existing Port Westward to
20 BPA Allston Substation right-of-way and by locating the new corridor needed for the
21 interconnection such that it crosses and parallels existing transmission corridors. Some tree
22 cutting will be required on the north-south leg of the interconnection, but the location of the
23 corridor will have little or no impact on forest resources given the small parcel size,
24 proximity to the substation and existing transmission lines, and the presence of wetlands.

25 .5 Road standards shall be limited to the minimum width necessary for management and
26 safety.

27 The new transmission lines will not require the construction of new roads or affect road
28 standards. Therefore, this criterion is not applicable.

29 .6 Development within major and peripheral big game range shall be consistent with the
30 maintenance of big game habitat. In making this determination, consideration shall
31 be given to the cumulative effects of the proposed action and other development in
32 area on big game habitat. Where such a finding is made, development shall be sited
33 to minimize the impact on big game habitat. To minimize the impact, structures
34 shall: be located near existing roads; be as close as possible to existing structures on
35 adjoining lots; and be clustered where several structures are proposed.

36 The Columbia County Comprehensive Plan identifies Major Big Game Habitat Areas and
37 Peripheral Big Game Habitat Areas. The portions of the transmission corridor located within
38 the FA-19 zone do not appear to be located in either of these habitat areas. Consequently,
39 this standard is not applicable.

1 Although this criterion is not applicable, it is met. The fact that the new transmission line
2 will be located within an existing corridor means that no mature forest cover will need to be
3 removed. Similarly, the interconnection will be in an area dominated by other transmission
4 lines and will not alter the character of the area. The overhead transmission lines will not
5 interfere with movement of big game, and the clearing under and around the transmission
6 line could provide an area for big game to feed. Unlike areas devoted to forestry use in
7 which foraging by deer may conflict with attempts at reforestation, foraging by deer within
8 the transmission corridor would be consistent with the need to keep the corridor clear of
9 mature vegetation.

10 **CCZO § 407 Standards:**⁹

11 5. The maximum building height for all non-farm structures shall be 35 feet.

12 The transmission towers will be about 120 feet in height (slightly lower for the towers used
13 for the interconnection). They will exceed the 35-foot height limit for non-farm structures.
14 The towers located within the FA-19 zone qualify for variance from the height limitation as
15 more fully described in the discussion of CCZO § 1504, below.

16 **CCZO § 1503 Conditional Uses:**

17 CCZO § 1503.5 imposes the following criteria:

18 A. The use is listed as a Conditional Use in the zone which is currently applied to the
19 site;

20 The transmission lines are a conditional use in the FA-19 zone because they are facilities
21 necessary for public utility service.

22 B. The use meets the specific criteria established in the underlying zone;

23 As described above, the transmission lines satisfy the applicable criteria established for the
24 FA-19 zone as set forth in CCZO §§ 405 and 407.

25 C. The characteristics of the site are suitable for the proposed use considering size,
26 shape, location, topography, existence of improvements, and natural features;

27 With the exception of the Summit interconnection, no new right-of-way will be created in the
28 FA-19 zone to meet transmission needs of the energy facility. The alignment of the
29 transmission line is suitable because it follows the existing transmission corridor, which is
30 currently in use for a similar transmission line. The site of the interconnection is also
31 suitable. The route provides for connection to a vacant bay at the BPA Allston Substation
32 while minimizing the need to clear new corridor because the line passes under and then
33 parallels existing transmission lines.

⁹ The standards in CCZO §§ 407.1 through 407.4 were not identified by the County as applicable substantive criteria. CCZO §§ 407.1 through 407.4 are not applicable because the transmission line will not require a land division or change in parcel dimensions or frontage. PGE has committed to comply with the 30-foot setback requirement in CCZO § 407.5.

1 D. The site and proposed development is timely, considering the adequacy of
2 transportation systems, public facilities, and services existing or planned for the
3 area affected by the use;

4 The development is timely because the existing corridor currently has capacity to accept
5 another line and the BPA Allston Substation has a bay available to accommodate the
6 interconnection. No transportation systems, public facilities, or services are required or
7 affected by the additional transmission line or interconnection.

8 E. The proposed use will not alter the character of the surrounding area in a manner
9 which substantially limits, impairs, or precludes the use of surrounding properties
10 for the primary uses listed in the underlying district;

11 Permitted uses in the FA-19 zone include farm use, the propagation or harvesting of forest
12 products, farm or forest dwellings, accessories to farm use, and the exploration for
13 geothermal resources. Conditional uses include limited commercial activities, mining,
14 schools, churches, community centers, parks or playgrounds, facilities necessary for public
15 utility service, airport landing strips, home occupations forest product processing facilities,
16 horse breeding, solid waste disposal, single family dwellings, and signs.

17 The current character of the surrounding area includes the existing Port Westward to BPA
18 Allston Substation transmission line and corridor. PGE already holds an easement for the
19 existing corridor that prevents encroachment by uses incompatible with overhead
20 transmission lines. The additional transmission line will not restrict primary uses in the
21 surrounding area any more than the existing transmission line. Forestry is already precluded
22 within the existing corridor. Most farming activities can, however, continue within the
23 transmission corridor. Similarly, the interconnection is in an area dominated by the BPA
24 Allston Substation and existing transmission lines. Addition of the new corridor, which will
25 pass beneath and then parallel the existing corridors, will not create new limitations on the
26 primary uses in the zone.

27 F. The proposal satisfies the goals and policies of the Comprehensive Plan which
28 apply to the proposed use;

29 The applicable Comprehensive Plan goals and policies as identified by the County are
30 addressed in Section IV, below.

31 G. The proposal will not create any hazardous conditions.

32 PGE is required to comply with all applicable safety standards for the new transmission lines
33 and consult with the appropriate local fire districts and agencies to ensure that all necessary
34 safety precautions are taken. (See Section D.13 of the Order.)

35 **3. COLUMBIA COUNTY PRIMARY FOREST -76 (PF-76) and RURAL**
36 **RESIDENTIAL-5 (RR-5) ZONES**

37 The transmission line is not identified as a permitted or a conditional use in the PF-76 or
38 RR-5 zones. The majority of the transmission line, under both the Allston and Trojan
39 options is located within the PF-76 zone. The BPA Allston Substation and the Summit

1 interconnection are also located in the PF-76 zone. Pursuant to CCZO § 503.6, utility
2 facilities, including utility corridors for electrical transmission lines of up to 115 kV, are
3 allowed as a conditional use in the PF-76 zone. The transmission lines will, however, be
4 230-kV lines, thereby exceeding the voltage limitation of CCZO § 503.6. As such, they do
5 not qualify as a conditional use in the PF-76 zone.

6 Two segments of the existing Port Westward to BPA Allston Substation transmission
7 corridor are located in the RR-5 zone. Thus, the Allston option will also pass through the
8 RR-5 zone. The second segment of the Trojan option will pass through land zoned RR-5
9 only if the second or fourth alignment is used. The permitted and conditional uses in the
10 RR-5 zone are identified in CCZO § 602 and 603. Utility lines or corridors are not identified
11 as permitted or conditional uses in the RR-5 zone.

12 Pursuant to ORS 469.504(1)(b)(B), a facility that does not comply with one or more
13 substantive criteria in the local land use code must demonstrate compliance with the
14 Statewide Planning Goals. This section addresses compliance with the Statewide Planning
15 Goals for the portions of the Allston and Trojan options that cross the PF-76 and the RR-5
16 zones.

17 **Goal 1 (Citizen Involvement):** To develop a citizen involvement program that
18 insures the opportunity for citizens to be involved in all phases of the planning
19 process.

20 The ASC did not propose any changes to the public participation elements of either state or
21 local law. The Council's rules provide sufficient public notice and opportunity to comment
22 to satisfy the requirements of Goal 1.

23 **Goal 2 (Land Use Planning):** Part I — To establish a land use planning process and
24 policy framework as a basis for all decisions and actions related to use of land and to
25 assure an adequate factual base for such decisions and actions.

26 PGE is using an express statutory land use option, ORS 469.504(1)(b)(B), for these portions
27 of the transmission line.

28 **Goal 3 (Agricultural Lands):** To preserve and maintain agricultural lands.

29 Land zoned PF-76 is considered forestland, not agricultural land; therefore, Goal 3 is not
30 directly applicable to these portions of the transmission line in the PF-76 zone. (See CCZO
31 §500.) The RR-5 zone is intended to allow rural residential uses in those rural areas of the
32 County that were committed to non-resource use at the time of initial zoning. (See CCZO
33 §601.) Therefore, while some farm uses are permitted in the RR-5 zone, it is not considered
34 agricultural land, and Goal 3 is not applicable.

35 **Goal 4 (Forestlands):** To conserve forestlands by maintaining the forestland base
36 and to protect the state's forest economy by making possible economically efficient
37 forest practices that assure the continuous growing and harvesting of forest tree
38 species as the leading use on forestland consistent with sound management of soil,

1 air, water, and fish and wildlife resources and to provide for recreational opportunities
2 and agriculture.

3 The Allston option and the first segment of the Trojan option will be located entirely within
4 the existing Port Westward to BPA Allston Substation corridor. With the exception of the
5 Summit interconnection, no new right-of-way will be necessary. The new line will not alter
6 the existing impact on forest growth beyond minimal additional clearing attributable to full
7 use of the existing right-of-way. As noted above, the right to clear this area is already
8 provided for by the existing easement.

9 About 1300 feet of new right-of-way will be required to connect the Summit energy facility
10 to the BPA Allston Substation. This area is already impacted by the BPA Allston Substation
11 and related transmission facilities and easements. The second segment of the Trojan option
12 requires creation of a new right-of-way, but the new corridor will be located immediately
13 adjacent to the existing BPA Trojan to BPA Allston Substation right-of-way in order to
14 minimize the possible impact on forest growth. The general alignment of the new right-of-
15 way will be in an area that is already impacted by an existing utility corridor. Thus, the
16 overall effect on forest harvesting and management is minimized because the disturbance
17 area will be limited to a relatively narrow section of the County's forestlands immediately
18 adjacent to an existing transmission corridor.

19 Nonetheless, an exception to Goal 4 will be required for the second segment of the Trojan
20 option and the Summit interconnection within the PF-76 zone. The justification for that
21 exception and compliance with other Goal 4 rules is addressed below in Sections VI and
22 VII.¹⁰

23 As with Goal 3, although forest uses are permitted in the RR-5 zone, its is not considered
24 forest land and Goal 4 is therefore inapplicable.

25 **Goal 5 (Natural Resources, Scenic and Historic Areas, and Open Spaces):** To
26 protect natural resources and conserve scenic and historic areas and open spaces.

27 The following discussion includes the Goal 5 resources relevant to the transmission corridor.

28 Open Space

29 Pursuant to the Goal 5 rule, open space includes forests. Within the PF-76 and RR-5 zones
30 the transmission lines would cross forest lands. However, neither the lines nor the poles
31 would negatively impact the open space values of this resource. Under the Allston option,
32 the entire transmission line will be located within an existing transmission corridor,
33 minimizing the impacts on open spaces. The second segment of the Trojan option and the
34 interconnection will require creation of new right-of-way in forest areas. Impacts on open
35 space resources will, however, be limited by placing the new corridors beneath and adjacent
36 to existing BPA transmission corridors. In addition, the corridor will be minimally
37 developed with the only structures being widely-spaced single pole transmission towers.

¹⁰ An exception does not appear to be necessary for construction in the existing utility right-of way (the Allston option and first segment of the Trojan option). Such an exception is, however, justified for the reasons described in Section VII.

1 Most of the corridor will remain vegetated, although it will be necessary to trim or remove
2 trees that may pose a threat to transmission lines.

3 Riparian Corridors

4 The transmission corridor will traverse a number of riparian areas including perennial
5 streams and forested/shrub and emergent wetlands. PGE will employ mitigation programs to
6 avoid riparian areas to the greatest extent possible in compliance with Goal 5 requirements.
7 A minimal amount of riparian vegetation will be removed during construction and
8 maintenance of the transmission lines. Pursuant to the mitigation plan, any removed
9 vegetation will be replaced with native species in compliance with Goal 5 requirements.

10 Wetlands

11 The ASC describes the wetland areas located along the transmission corridors and details the
12 mitigation measures that will be employed to avoid or minimize impacts to wetland areas.
13 The transmission towers have been located to avoid wetland areas within portions of the
14 corridor zoned PF-76 or RR-5 to the greatest extent possible. Only one tower in the PF-76
15 zone (T4) appears to be in wetlands. This impact has been addressed in PGE's mitigation plan.

16 Wildlife Habitat

17 PGE will implement mitigation plans to minimize the removal of wildlife habitat and lessen
18 the impact on surrounding wildlife.

19 The following Goal 5 resources are not relevant to the transmission lines within the PF-76
20 and RR-5 zones: Federal Wild and Scenic Rivers, Oregon Scenic Waterways, Groundwater
21 Resources, Recreation, Approved Oregon Recreation Trails, Natural Areas, Wilderness
22 Areas, Mineral and Aggregate Resources, Energy Resources, Historic Resources, and Scenic
23 Views and Sites. These resources are not found in the area of the transmission lines in the
24 PF-76 and RR-5 zones.

25 **Goal 6 (Air, Water and Land Resources Quality):** To maintain and improve the
26 quality of the air, water and land resources of the state.

27 The transmission lines will not generate waste or discharge to air, land, or water. On a
28 project-wide basis, however, PGE will be required to comply with all federal and state
29 permitting requirements and environmental regulations.

30 **Goal 7 (Areas Subject to Natural Disasters and Hazards):** To protect life and
31 property from natural disasters and hazards.

32 Goal 7 is intended to ensure that developments that could be damaged by natural disasters
33 with the potential for resultant injury to persons or property are approved only where
34 appropriate safeguards are in place. The transmission lines will be designed and constructed
35 in accordance with the National Electrical Safety Code and will be placed within a cleared
36 corridor free of encroachment by incompatible uses. Thus, the design of the facility protects
37 against the potential for injury to persons or property, even in the event of a natural disaster.
38 (See also Sections D.5 and E.1.c of the Order).

1 **Goal 8 (Recreational Needs):** To satisfy the recreational needs of the citizens of the
2 state and visitors and, where appropriate, to provide for the siting of recreational
3 facilities including destination resorts.

4 The ASC does not involve the siting of a recreational facility. See also, discussion of
5 recreation standard, OAR 345-022-0100.

6 **Goal 9 (Economic Development):** To provide adequate opportunities throughout the
7 state for a variety of economic activities vital to the health, welfare and prosperity of
8 Oregon's citizens.

9 The energy facility and associated transmission lines satisfy Goal 9 not only by providing
10 employment opportunities during construction and operation, but also by taking advantage of
11 an appropriate site and existing infrastructure. The Goal 9 planning guidelines encourage the
12 siting of industrial uses where they have a comparative advantage. Comparative advantage
13 industries are defined as "those economic activities which represent the most efficient use of
14 resources, relative to other geographic areas." The facility's location is geographically
15 appropriate and designed to make efficient use of available resources. As explained in detail
16 above, with respect to CCZO §§ 681 and 683. Consequently, relative to other geographic
17 areas in the region, the facility makes efficient use of resources and existing improvements.
18 The Goal 9 planning guidelines also encourage the expansion of existing industries. The
19 facility furthers this objective by expanding the existing electrical generating industry in
20 Columbia County generally and the Port Westward Industrial Park specifically.

21 **Goal 10 (Housing):** To provide for the housing needs of citizens of the state.

22 Goal 10 is not applicable. Goal 10 has no effect on residential development outside a UGB.
23 See, Goal 10 and OAR 660-008-0000. The segments of the transmission lines in the PF-76
24 zone will not affect housing availability or buildable lands. Similarly, although single-family
25 dwellings are permitted outright in the RR-5 zone, lands zoned RR-5 are not "buildable
26 lands" as that term is used in Goal 10 ("lands in urban or urbanizable areas that are suitable,
27 available and necessary for residential use"). The Rural Residential element of the County's
28 Comprehensive Plan recognizes that lands designated Rural Residential "are rural in nature
29 [and] not suited for urbanizable or urban use." Thus, the segments of the transmission lines
30 in the RR-5 zone will not affect housing availability or buildable lands, either.

31 **Goal 11 (Public Facilities and Services):** To plan and develop a timely, orderly and
32 efficient arrangement of public facilities and services to serve as a framework for
33 urban and rural development.

34 The transmission lines will not require any new public facilities or services. See also,
35 discussion of public services standard, OAR 345-022-0110.

36 **Goal 12 (Transportation):** To provide and encourage a safe, convenient and
37 economic transportation system.

38 The transmission lines will not require construction or improvement of any roads or other
39 transportation facilities and will not create any long-term conflicts with any such facilities.

1 There may be some temporary construction-related interruptions, but PGE will keep the
2 interruptions to a minimum and will comply with all state and local transportation
3 requirements. Furthermore, PGE will mitigate transportation impacts related to construction
4 of the energy facility as described above.

5 **Goal 13 (Energy Conservation):** To conserve energy.

6 Goal 13 requires local governments to maximize energy conservation. This Goal does not
7 appear applicable in that the transmission line will not consume energy. To the extent this
8 Goal is applicable, the transmission line satisfies this Goal to the greatest extent possible by
9 using existing transmission corridors.

10 **Goal 14 (Urbanization):** To provide for an orderly and efficient transition from
11 rural to urban use.

12 The transmission line does not require a change in any land use designations and will not
13 alter the rural character of the areas it crosses. Therefore, the transmission line will not have
14 any impact addressed under Goal 14.

15 **Goals 15 through 19:**

16 These goals are not applicable because the transmission line will not be located in any of the
17 geographical areas addressed by Goals 15 through 19.

18 **C. OTHER COLUMBIA COUNTY ZONING PROVISIONS**

19 Certain CCZO standards apply within the County's jurisdiction regardless of the zoning
20 designation.

21 · CCZO § 1170 (Protection of Water Quality, Streambank Stabilization, and Fish
22 and Wildlife Habitat);

23 § CCZO § 1550 (Site Design Review); and

24 § CCZO § 1504 (Variances).

25 **CCZO § 1170 Protection of Water Quality, Streambank Stabilization, and Fish and** 26 **Wildlife Habitat:**

27 The purpose of CCZO § 1170 is to provide for the protection of riparian areas adjacent to
28 rivers, streams and lakes in the County. CCZO § 1170.2 prohibits the construction of
29 structures other than fences and signs in riparian areas. The relevant riparian areas are
30 defined in CCZO § 1170.1 as follows:

31 A. For all Class I rivers and streams, the area of riparian vegetation shall extend
32 50 feet landward of the ordinary high water line except where shrub or forested
33 wetlands are located adjacent to the river, then the riparian are shall be the entire are
34 of shrub or forested wetland. Where emergent wetland vegetation exists adjacent to a

1 river, the 50 feet shall be measured from the landward extent of the emergent
2 vegetation.

3 * * *

4 C. For all other rivers, streams, and sloughs, the area of riparian vegetation shall
5 extend 25 feet landward of the ordinary high water line except where shrub and
6 forested wetlands are located adjacent to the river, then the riparian area shall be the
7 entire area of shrub or forested wetland. Where emergent wetland vegetation exists
8 adjacent to a river, the 25 feet shall be measured from the landward extent of the
9 emergent vegetation.

10 Pursuant to CCZO §1170.2.B, a lesser setback may be allowed if “the riparian vegetation
11 does not actually extend all the way into the riparian area to the location of the proposed
12 structure and the riparian vegetation has not been removed in violation of the * * * riparian
13 vegetation maintenance standards.”

14 Class I rivers and streams are shown on Columbia County Comprehensive Plan Map 47.
15 Class I rivers are defined as waters that are valuable for domestic use, are important for
16 angling or other recreation, and/or are used by significant numbers of fish for spawning,
17 rearing or migration routes.

18 The energy facility site is bordered to the north by the Columbia River and to the east by the
19 Bradbury Slough. The Columbia River or the Bradbury Slough are considered Class I rivers
20 subject to CCZO §1170.1.A. A dike has been built along the river adjacent to the energy
21 facility site, which has eliminated most riparian vegetation. There are five wetland areas
22 located on the energy facility site. Only one of the wetland areas, Wetland Area 5, is located
23 adjacent to the Columbia River. Therefore, the setback required in the vicinity of Wetland
24 Area 5 extends 50 feet from the landward extent of the emergent wetland vegetation. The
25 setback required on the remainder of the energy facility site extends 25 feet from the ordinary
26 high water line.

27 The transmission line would cross a number of Class I rivers identified on Map 47.
28 Consequently, the setbacks in CCZO §1170.1.A apply.

29 The energy facility and the gas and wastewater discharge pipelines will be located more than
30 50 feet landward of the ordinary high water line of both the Columbia River and the
31 Bradbury Slough and more than 50 feet from the landward extent of Wetland Area 5, in
32 compliance with this requirement.¹¹ The existing water intake structure and dock are already
33 located within the riparian area, however, modifications to these facilities will not require
34 additional removal of riparian vegetation.

35 PGE has considerable flexibility in the placement of transmission towers. The transmission
36 towers will be located so that the lines span riparian areas and stream channels. No
37 transmission towers will be placed within 50 feet of a Class I river, stream, or the emergent
38 vegetation adjacent to such a river or stream or within 25 feet of other rivers, streams, and

¹¹ The main wastewater discharge pipeline and treatment facility will be constructed by the Port of St. Helens, not PGE.

1 sloughs or the emergent vegetation adjacent to such a river, stream, or slough. (See Section
2 D.8 of the Order.)

3 CCZO § 1170.3 regulates the maintenance, removal and replacement of riparian vegetation,
4 and imposes the following standards:

5 A. No more of a tract’s existing vegetation shall be cleared from the setback and
6 adjacent area than is necessary for a permitted use, accessory building necessary
7 access, septic requirements, and fire safety requirements.

8 B. Construction activities in and adjacent to the riparian area shall occur in such a
9 manner so as to avoid unnecessary excavation and/or removal of existing
10 vegetation beyond that required for the facilities indicated in (A) above. Where
11 vegetation removal beyond that allowed in (A) above cannot be avoided, the site
12 shall be replanted during the next replanting season to avoid water sedimentation.
13 The vegetation shall be if indigenous species in order to maintain the natural
14 character of the area.

15 C. A maximum of 25% of existing natural vegetation may be removed from the
16 riparian area.

17 The primary mitigation measures employed to protect both riparian areas and wildlife habitat
18 will be avoidance of waterways and minimum disturbance of vegetation. There will be no
19 riparian vegetation removed from the energy facility site.

20 A minimum amount of riparian vegetation must be removed during construction and
21 maintenance of the transmission lines as required by state regulations requiring the clearing
22 of transmission corridors. PGE will not clear any more riparian vegetation than is necessary
23 for the permitted transmission corridors and lines, including clearing required for fire safety
24 purposes. (See Section D.8 of the Order.)

25 **CCZO § 1550 Site Design Review:**

26 The standards applicable in Site Design Review are set forth in CCZO § 1550.12, which
27 addresses buffering, screening and fencing, and CCZO § 1550.13, which provides general
28 standards of approval.¹²

29 **CCZO § 1550.12 Landscaping: Buffering, Screening and Fencing:**

30 These standards address protection of existing vegetation, use of buffering and screening to
31 reduce impacts on adjacent uses that are of a different type, and standards for fencing and
32 walls.

33 CCZO § 1550.12.A contains requirements for preservation or replacement of on-site
34 vegetation. With respect to protection of vegetation, the energy facility site has no
35 significant vegetation to protect. Some vegetation will need to be cleared from the existing

¹² The information in the ASC provides the information that might otherwise be requested under CCZO §§ 1550.10 and 1550.11, to the extent necessary to address site design issues.

1 Port Westward to BPA Allston Substation transmission corridor under either transmission
2 option. Clearing a new transmission right-of-way will be necessary for the Trojan option.
3 Replacement or replanting of trees is not appropriate because the corridors must be kept clear
4 of vegetation that could create a safety or fire hazard for overhead transmission lines.
5 Development of the facility will be subject to the requirements of an NPDES stormwater
6 permit for construction activities. Compliance with that permit will ensure that best
7 management practices are used to minimize erosion during construction and that disturbed
8 soils are revegetated following construction.

9 CCZO § 1550.12.B and C contain requirements for buffering and screening. The purpose of
10 the buffering and screening standards is to reduce impacts on adjacent uses that are of a
11 different type. The energy facility does not have to be buffered or screened from adjacent
12 uses, because adjacent uses are not of a different type. They are similarly industrial in nature
13 and would not be adversely affected by the energy facility. The transmission line is buffered
14 by the required clearing of the corridor on either side of the transmission line.

15 The screening requirements do not appear applicable in the absence of differing uses. To the
16 extent that any portion of the facility would require screening under CCZO § 1550.12.C.1. or
17 C.5, a variance from that standard is justified for the reasons discussed with respect to the
18 variance for the fencing standard.

19 CCZO § 1550.12.C.2-C.3 are also not applicable because the new use is not located downhill
20 from adjoining uses and because the parking facilities at the energy facility site will not be
21 adjacent to a public road. CCZO § 1550.12.C.4 is permissive, not mandatory.

22
23 CCZO § 1550.12.D includes fencing requirements. As discussed above, PGE requested a
24 variance from the fencing requirements of the County’s design review standards, to allow a
25 chain link security fence around the energy facility site without slats or a continuous
26 evergreen hedge. PGE will be required to comply with applicable fence height requirements.

27 CCZO § 1550.12.E requires that “where natural vegetation or topsoil has been removed in
28 areas not occupied by structures or landscaping, such areas shall be replanted to prevent
29 erosion.” The erosion control plan for the NPDES stormwater construction permit will
30 address revegetation following construction.

31
32 **CCZO § 1550.13 Standards for Approval:**

33 A. Flood Hazard Areas: See CCZO § 1100, Flood Hazard Overlay Zone. All
34 development in Flood Hazard Areas must comply with State and Federal
35 Guidelines.

36 The energy facility site is not subject to the Flood Hazard Overlay Zone. The transmission
37 lines will also be located outside flood hazard areas.

38 B. Wetlands and Riparian Areas: Alteration of wetlands and riparian areas shall
39 be in compliance with State and Federal laws.

1 Section E.1.d of the Order reviews PGE’s compliance with the state’s wetlands regulations.
2 In the Order, the Council directs the Division of State Lands to issue a Removal/Fill Permit
3 for the facility. Furthermore, PGE will be required to obtain all required federal approvals
4 and comply with applicable state and federal standards for any alteration of wetlands and
5 riparian areas.

6 C. Natural Areas and Features: To the greatest practical extent possible, natural
7 areas and features of the site shall be preserved.

8 There are no significant natural areas or features on the energy facility site. Within the
9 transmission corridor, PGE will comply with this standard to the extent possible, given safety
10 standards requiring that transmission corridor be kept clear of vegetation that could interfere
11 with overhead transmission lines.

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

16 The site is not included in the Comprehensive Plan as a historically or culturally significant
17 site, nor is the site included on the list for periodic review. Consequently, this standard is
18 inapplicable.

19 E. Lighting: All outdoor lights will be shielded so as not to shine directly on
20 adjacent properties and roads.

21 All outdoor lighting will be shielded except as required by safety requirements. Columbia
22 County also recommended as a condition for the site certificate that PGE submit its outdoor
23 lighting plan to the County, showing how it will manage glare from the energy facility. This
24 recommendation is incorporated into a condition in the Order.

25 F. Energy Conservation: Buildings should be oriented to take advantage of
26 natural energy saving elements such as the sun, landscaping and landforms.

27 Solar orientation is not a factor in the energy use of the facility. The energy facility site is
28 relatively flat; therefore, slopes are not a consideration in determining building orientation.

29 G. Transportation Facilities: Off-site auto and pedestrian facilities may be
30 required by the Planning Commission, Planning Director or Public Works
31 Director consistent with the Columbia County Road Standards and the
32 Columbia County Transportation Systems Plan.

33 Given the nature of the use and size of the subject tract, off-site parking will not be
34 necessary. PGE has worked with the County and with other projects locating at the Port
35 Westward Industrial Park to reach agreement on the improvements that are necessary and the
36 means of financing those improvements. The agreement between the County and PGE with
37 respect to transportation-related mitigation measures and improvements is addressed in
38 Section D.13 of the Order.

1 **CCZO § 1504 Variances:**

2 The transmission towers will be about 120 feet in height. Pursuant to CCZO § 304.7 the
3 maximum height for non-farm or non-forest uses in the PA-38 zone is 50 feet. Pursuant to
4 CCZO § 407.5, the maximum height for non-farm uses in the FA-19 zone is 35 feet. The
5 towers would exceed both of these height limitations by more than 25 percent. A major
6 variance will therefore be required for towers in those zones.

7 PGE has requested a major variance from the fencing requirement of CCZO § 1550.12.D.3 to
8 allow use of a chain link fence, without slats or a continuous evergreen hedge, around the
9 energy facility site.

10 In addition, PGE has requested a major variance from the minimum loading standards
11 required of “manufacturing, wholesale, storage or hospital” uses. The number of loading
12 spaces required is far in excess of what is needed for this particular use. Unlike most
13 industrial uses, the energy facility will not rely on trucks for delivery of principal raw
14 materials (natural gas and water) or for shipment of its end product (electricity).

15 CCZO § 1504.1.A. provides that a variance shall be granted only when all the following
16 conditions and facts exist:

- 17 1. The granting of the variance will not be detrimental to the public safety,
18 health, or welfare, or injurious to other property.

19 Transmission towers: Allowing 120-foot transmission towers in an existing transmission
20 corridor and in the immediate vicinity of the existing substation and related transmission
21 facilities will not be detrimental to public safety, health, or welfare, or injurious to other
22 property. For the most part, the towers will be placed in the existing Port Westward to BPA
23 Allston Substation corridor near existing towers. Although the Summit interconnection will
24 require new towers in a new corridor, the affected area is already impacted by a number of
25 other transmission lines and corridors. PGE will use shorter H-frame towers where the
26 interconnection crosses beneath existing transmission lines. Compliance with all safety and
27 environmental standards will be required during both construction and operation.

28 Fence: Allowing the use a chain link fence around the energy facility site will not be
29 detrimental to public safety, health, or welfare, or injurious to other property. Security
30 around an energy facility site requires that the surrounding area be visible in order to detect
31 any unauthorized persons attempting to enter the site. A chain link fence provides security
32 with good visibility and better promotes public safety, health and welfare than fencing or
33 landscaping that interferes with visibility. A chain link security fence surrounds the Beaver
34 Generating Plant.

35 Loading: Allowing a reduction in the number of loading spaces will not be detrimental to
36 public safety, health, or welfare, or injurious to other property. Two spaces will be adequate

1 for the needs of this particular industrial use, which, unlike similarly sized industrial uses,
2 will require minimal deliveries and no shipping.

3 2. The conditions upon which the request for a variance is based are unique
4 to the property for which the variance is sought and are not applicable
5 generally to other property.

6 Transmission towers: Without a variance the corridor would need to avoid land zoned PA-38
7 and FA-19. It would be impossible to avoid the PA-38 zone because the Port Westward tract
8 is surrounded by PA-38 zoned land. Similarly, it would be impossible to avoid the FA-19
9 zone because both the existing corridor and the east side of the BPA Allston Substation (to
10 which the Summit interconnection will connect) are zoned FA-19. Locating the new line
11 entirely within an existing corridor will avoid additional impacts on surrounding areas and
12 protect wildlife habitat and other values. Therefore, a unique situation exists that is not
13 present on or applicable to other properties or uses.

14 Fence: The chain link fence will be located around the energy facility site. The need for the
15 fence is related to the unique security requirements of an energy facility.

16 Loading: As discussed above, the loading requirements are unique to the energy facility use
17 of this site. An electric generating facility fueled by natural gas does not need the number of
18 spaces required of industrial uses under the CCZO.

19 .3 Approval of the application will allow the property to be used only for
20 purposes authorized by the Zoning Ordinance.

21 Transmission towers: Transmission lines are allowed as a conditional use in both the PA-38
22 and FA-19 zones. As demonstrated above, the lines meet all of the other conditional use
23 requirements and other provisions of the CCZO.

24 Fence: Allowing a chain link fence around the energy facility site will not change the
25 underlying use of the property, which is allowed as a conditional use in the RIPD zone.

26 Loading: Allowing a reduction in the number of loading spaces at the energy facility will not
27 change the underlying use of the property, which is allowed as a conditional use in the RIPD
28 zone.

29 4. Strict compliance with the Zoning Ordinance would create an unnecessary
30 hardship.

31 Transmission towers: Strict compliance of the height restrictions in the zoning ordinance
32 would create a hardship by forcing the path of the new transmission line to diverge from the
33 existing corridor in order to avoid crossing a PA-38 or FA-19 zone. It would be impossible
34 for the line to avoid an area zoned PA-38. Moreover, although the new corridor could
35 technically bypass the FA-19 zoned property, such an alignment would erase the benefits of
36 locating the new line entirely within an existing corridor, and thus create an unnecessary

1 hardship for both PGE and the community. It would also be impossible for the Summit
2 interconnection to avoid an area zoned FA-19 because the east side of the BPA Allston
3 Substation is on land zoned FA-19.

4 Fence: Strict compliance with the fencing requirement would allow use of a chain link fence
5 only if it had slats and was surrounded by a continuous evergreen hedge, which would
6 compromise PGE’s ability to provide the necessary level of security for the energy facility.

7 Loading: Strict compliance with the requirements with respect to loading spaces would
8 require development of a large number of unnecessary spaces, rather than limiting
9 development to that needed for the proposed use.

10 5. The granting of the variance will not adversely affect the realization of the
11 Comprehensive Plan nor violate any other provisions of the Zoning
12 Ordinance.”

13 Transmission towers: Granting the variance would not adversely affect the realization of the
14 Comprehensive Plan or violate the CCZO. Rather, granting a variance that allows the new
15 line to remain entirely within the existing corridor will advance the wildlife habitat and open
16 space protections in the Comprehensive Plan and CCZO. Furthermore, because the towers
17 would primarily consist of a single pole structure, the visual impact on surrounding areas,
18 also protected through the Comprehensive Plan, would be minimal. Granting the variance
19 for the Summit interconnection furthers the productive use of an area already developed for
20 energy transmission.

21 Fence: The energy facility site is zoned for industrial use. The Port Westward Industrial
22 Park has an existing generating facility with a perimeter fence similar to the fence requested
23 for the energy facility site. The chain link fence will provide the requisite level of security
24 without adversely affecting the objectives of the Comprehensive Plan or violating the CCZO.

25 Loading: Granting the variance is consistent with the Comprehensive Plan and CCZO in that
26 it would allow a conditional use while reducing the impact of that use by avoiding the
27 development of unnecessary loading spaces.

28 For these reasons, the Council finds that variances from the height limitations in CCZO §§
29 304.7 and 407.5, the fence requirement in CCZO § 1550.12.D.3, and the loading
30 requirements in CCZO § 1418.3 are appropriate.

31 **IV. COLUMBIA COUNTY COMPREHENSIVE PLAN**

32 The County's Comprehensive Plan contains policies that address overall planning goals
33 adopted by the County. Although the policy statements do not contain specific substantive
34 criteria, we discuss the relevant polices below for purposes of completeness.¹³

¹³ This section addresses the elements of the Comprehensive Plan identified by the County, as well as the Forest

1 **Forest Lands**

2 **Goal:** To conserve forest lands for forest uses.

3 The energy facility and associated transmission line satisfy the goal of conserving forest
4 lands. The facility itself will be located in the RIPD zone near the center of a tract of land
5 that has been designated for industrial use. Therefore, the energy facility will have no direct
6 impact on forestlands.

7 The Allston option and the first segment of the Trojan option will be located within the
8 existing Port Westward to BPA Allston Substation right-of-way. The right-of-way is located
9 primarily on forestlands zoned PF-76. The new line will be located within the boundaries of
10 the corridor. It will require only limited clearing. The Summit interconnection will require
11 the creation of new right-of-way in the immediate vicinity of the BPA Allston Substation.
12 This area is already heavily impacted by existing transmission lines, corridors, and
13 easements. The Trojan option also requires the creation of new right-of-way from the
14 vicinity of the BPA Allston Substation to the Trojan Nuclear Plant. This would require
15 clearing a corridor up to 125 feet wide. This option satisfies the goal of conserving forest
16 land, however, because the alignment is parallel and adjacent to the existing BPA Allston
17 Substation to Trojan BPA corridor.

18 **Agriculture**

19 **Goal:** To preserve agricultural land for agricultural uses.

20 The energy facility is not located on agricultural lands; therefore, this goal is not applicable
21 to that element of the project. The transmission line will be located on segments of both PA-
22 38 and FA-19 zoned land. The existing transmission lines are a low-impact use that does not
23 affect farming activities on the ground except where a tower is located. The same will be
24 true of the new line. Therefore, PGE would meet this goal by preserving agricultural lands
25 for agricultural uses.

26 Policies: It shall be a policy of the County to:

27 4. Protect agricultural lands from non-farm encroachments.

28 With the exception of the Summit interconnection and the area in the immediate vicinity of
29 the BPA Allston Substation under alignment 4, the only portion of the transmission line that
30 will cross agriculturally-zoned properties (PA-38 or FA-19) is between Port Westward and
31 BPA Allston Substation, where the transmission line will be located entirely within an
32 existing PGE easement. The interconnection and alignment 4 will require the creation of
33 new right-of-way in the immediate vicinity of the BPA Allston Substation. This area is
34 already heavily impacted by existing transmission lines, corridors, and easements. Further,
35 to the extent any farm use does occur, it can continue under the overhead transmission lines.
36 Consequently, the transmission line and associated towers do not represent an additional
37 encroachment onto agricultural lands.

Lands, Agriculture, Open Space, and Air, Land, and Water elements.

1 15. Permit non-farm/non-forest uses only when not in conflict with agricultural or
2 forestry activities.

3 Due to their height and limited width, transmission lines do not interfere with agricultural
4 activities (with the exception of aerial spraying). The transmission lines and associated
5 towers will either be located within an existing transmission corridor or in the immediate
6 vicinity of the BPA Allston Substation when in agriculturally-zoned areas. Existing
7 agricultural and forestry uses would not face constraints not already present by virtue of the
8 existing transmission lines in the corridor. Moreover, the forestry uses in the vicinity of the
9 substation are already constrained by parcel size and the presence of wetlands.

10 17. Allow non-farm uses in accordance with ORS 215.283.

11 ORS 215.283(1)(d) provides that "utility facilities necessary for public service" are allowed
12 on EFU zoned lands.¹⁴ The transmission lines are a utility facility necessary for public
13 service.

14 **Economy**

15 **Goals:**

16 1. To strengthen and diversify the economy of Columbia County and insure
17 stable economic growth.

18 The energy facility represents a substantial increase in the energy resource base of Columbia
19 County. Moreover, the energy facility is expected to operate for at least 30 years, providing
20 a stable contribution to the County's economy. The energy facility will employ about
21 25 employees during operation, and is expected to operate for at least 30 years. Additionally,
22 during construction, the facility would generate about 300 jobs.

23 2. To utilize Columbia County's natural resources and advantages for expanding
24 and diversifying the economic base.

25 The energy facility will take full advantage of the Columbia River to expand the County's
26 industrial base. The energy facility will withdraw water from the Bradbury Slough under a
27 water right held by the Port of St. Helens. The energy facility will make use of that resource,
28 combined with the use of existing facilities and infrastructure on the Port Westward site
29 (including an interstate natural gas pipeline, water intake, rail access, and transmission
30 corridor), to expand and diversify the County's economic base.

31 Policies: It shall be a policy of the County to:

32 1. Encourage the creation of new and continuous employment opportunities.

33 2. Encourage a stable and diversified economy.

¹⁴ Such uses may be established as provided in ORS 215.275. Compliance with ORS 215.275 is addressed below in Section VI.

1 The facility is consistent with these policies for the reasons discussed above with respect to
2 the goals of the Economy element.

3 8. Reserve valuable industrial sites for industrial use.

4 The facility takes advantage of a valuable industrial site reserved for industrial use.

5 11. Coordinate with public utility companies to insure energy supplies are available
6 to areas programmed for development and redevelopment.

7 The Port Westward Exception Statement states that adequate electrical service exists to
8 support a high level of industrial development at Port Westward Industrial Park. Moreover,
9 the energy facility will generate much more electricity than it will consume.

10 **Industrial Development**

11 **Goals:**

12 1. To strengthen and diversify the economy of Columbia County and insure stable
13 economic growth.

14 2. To utilize Columbia County's natural resources and advantages for expanding and
15 diversifying the industrial base.

16 3. To encourage industrial growth in Columbia County to diversify its economy.
17 New industry should locate to take maximum advantage of existing public and
18 private investments.

19 The facility meets these goals for the reasons discussed above with respect to the Economy
20 element of the Comprehensive Plan.

21 Policies: It shall be a policy of the County to establish, implement, and maintain an
22 industrial program which:

23 1. Encourages the creation of new and continuous employment opportunities.

24 2. Encourages a stable and diversified economy.

25 The energy facility will employ about 25 employees during operation, and is expected to
26 operate for at least 30 years. Additionally, during construction, the facility will generate
27 about 300 jobs.

28 5. Recognizes the existence of sites suitable to be developed as deep-water ports but
29 are not needed at this time.

30 The Port Westward Exception Statement recognizes Port Westward as a deep-water port site.
31 PGE anticipates using the existing dock facilities during construction of the facility. Further,
32 the energy facility will not affect the availability of the dock for other future industrial uses at
33 Port Westward.

1 9. Assures land which is already used as industrial or irrevocably committed to
2 industry shall be so designated.

3 The Port Westward Exception Statement reflects that the Port Westward Industrial Park is
4 designated for industrial use due to its historic use for industrial purposes and its suitability
5 for future industrial use. The Exception Statement identifies potential future uses of the
6 property. All of the uses listed are industrial uses that would take advantage of the
7 surrounding natural resources or facilities.

8 11. Directs industries that are either land extensive, resource related, marine
9 related, and/or incompatible with urban populations to those sites which are
10 appropriate to the use and are currently zoned for that use.

11 The facility is consistent with this policy for the reasons discussed above with respect to the
12 Economy element of the Comprehensive Plan.

13 12. Is consistent with the exception statements for those sites requiring an
14 exception to the applicable resource goal.

15 The County took an exception to Statewide Planning Goal 3, Agriculture to zone land outside
16 of the Urban Growth Boundary as industrial land. The Port Westward Exception Statement
17 is included as part of the Columbia County Comprehensive Plan. The Exception Statement
18 discusses the site's existing character and facilities, history, and surrounding uses. The
19 Exception Statement demonstrates that the Port Westward site is ideally suited for further
20 industrial development that is consistent with its proximity to the Columbia River as well as
21 other existing facilities. The energy facility is consistent with the identified goals and future
22 uses of the Port Westward tract.

23 **Resource Industrial Development**

24 **Goal:** It is a goal of the County to provide for industrial development on rural lands
25 when such development can be shown to support, utilize, or in some manner be
26 dependent upon, the natural resources of the area.

27 The RIPD zone provides a zone that conditionally allows industrial development on rural
28 lands provided they use the surrounding natural resources. As discussed above with respect
29 to the CCZO §§ 681 and 683, the energy facility will use the natural resources available at
30 the Port Westward tract consistent with the Resource Industrial Development element of the
31 Comprehensive Plan. For the reasons outlined above with respect to the Industrial
32 Development element and CCZO §§ 681 and 683, the facility is consistent with the policies
33 of the Resource Industrial Development element as well.

34 **Public Facilities and Services**

35
36 **Goal:** To plan and develop a timely, orderly, and efficient arrangement of public
37 services as a framework for urban and rural development.

38
39 Policies: It shall be the County policy to:

1
2 1. Require that adequate types and levels of public facilities and services be provided
3 in advance of or concurrent with development.
4

5 The facility meets this policy for the reasons discussed in more detail above with respect to
6 CCZO § 683.1. Given the nature of the facility and existing and future on-site facilities and
7 services, the energy facility will not impose a significant burden on public utility providers.
8 The domestic water, cooling water, sanitary sewage, and wastewater would be handled at the
9 energy facility site and in the immediate area and will not place any additional burdens on
10 local providers. The Columbia County solid waste system currently has capacity to handle
11 all project solid waste generated by the energy facility. Further, the energy facility will not
12 have a significant impact upon police or fire services, health care, public education, or
13 housing, due to the limited number of full time employees. PGE and the County have also
14 entered into an agreement regarding the construction and funding of any necessary
15 transportation system improvements. (See Section D.13) The transmission line will not
16 require public facilities or services.
17

18 4. Encourage new development on lands within urban growth boundaries or built and
19 committed exception areas.

20 The Port Westward Industrial Park is a committed exception area.

21 13. Support a level of fire safety and service in all areas of the county sufficient to
22 minimize the risk of fire damage to life and property.

23 The energy facility will have on-site fire protection services and the transmission corridor
24 will be cleared. The facility will not require expansion of public systems or services.

25 **Transportation**
26

27 **Goal:** The creation of an efficient, safe, and diverse transportation system to serve
28 the needs of Columbia County residents.
29

30 Policies:
31

32 3. Appropriate off-site improvements to county roads shall be required whenever
33 development results in a major increase in traffic on an existing county road.
34

35 The energy facility will have about 25 full-time employees distributed over three shifts.
36 Thus, the operation of the facility will not result in a major increase in traffic on an existing
37 county road. PGE and the County have entered into an agreement with respect to necessary
38 improvements to off-site county roads and PGE's share in funding the cost of those
39 improvements. (See Section D.13)
40

41 5. Industrial uses shall be encouraged to locate in such a manner that they may take
42 advantage of the water and rail transportation systems which are available to the
43 County.
44

1 Location of the energy facility at the Port Westward site meets this policy. The Energy
2 facility will use the dock and rail line during construction. As a practical matter, however,
3 operation of the facility likely will not make significant use of rail transportation because the
4 principal materials used by PGE's process, natural gas and water, will be supplied by pipe
5 from nearby sources and the principal product generated by PGE's process is "shipped" via
6 transmission line. The location of the facility takes advantage of an existing
7 municipal/industrial water right held by the Port of St. Helens and an existing water intake
8 facility, which is a permitted point of diversion under the Port's water right.

10 **Open Space, Scenic and Historic Areas, and Natural Resources**

11 Open Space

12 The open space element of the County's Comprehensive Plan indicates that about 90 percent
13 of Columbia County is comprised of lands in forest, farm, recreational, or other open space
14 use. Rather than designate specific locations as open space resources, the County adopted a
15 general goal to conserve open space. The energy facility achieves this goal because it will be
16 located on a tract committed to industrial development, rather than agricultural or other open
17 space uses.

18 Although the transmission lines will cross both agricultural land and forestlands, neither the
19 lines nor the poles would be inconsistent with this goal. With the exception of new corridor
20 necessary to interconnect the Summit circuit at the east side of the BPA Allston Substation,
21 the entire transmission line will be located within an existing transmission corridor under the
22 Allston option. The same is true of the first segment of the Trojan option. This minimizes
23 any impact of the line on open spaces. Although the Trojan option will require establishment
24 of a new transmission right-of-way, the disruption to open spaces will be limited by aligning
25 the corridor immediately adjacent to an existing BPA line.

26 Surface Mining

27 The Comprehensive Plan identifies significant mineral and aggregate sites that were being
28 mined as of 1984. The plan also identifies areas where mineral deposits are generally
29 located. None of the identified aggregate or mineral areas is located within the analysis area
30 of the facility.

31 Energy Sources

32 The Comprehensive Plan lists the Trojan Nuclear Plant, the Beaver Generating Plant, and the
33 natural gas wells in the Mist area as the primary sources of energy in the County. The Trojan
34 Plant is no longer producing energy. The energy facility will significantly enhance the
35 electrical generating capacity of the County.

36 Habitat

37 Sixteen fish and wildlife habitat types and three state sensitive and/or federal species of
38 concern are known to occur within the defined project analysis area. Mitigation measures

1 will be employed to avoid significant potential adverse impacts on the species and habitat.
2 The mitigation measures comply with ODFW's fish and wildlife habitat mitigation goals.

3 The transmission line crosses through Peripheral Big Game Habitat and small areas of Big
4 Game Habitat. The transmission corridor and transmission towers will not unduly conflict
5 with the habitat areas, however. The proposed single support poles would cause minimal
6 ground disturbance and therefore, would not impede animal foraging or migration patterns.
7 The overhead transmission line will not interfere with movement of big game and will
8 actually improve foraging habitat because clearing under and around the transmission line
9 will provide an area for big game to feed.

10 Natural Areas

11 The County's inventory of natural areas identifies sites based upon their ecological
12 significance. Based upon significance, the sites are identified as either (1A), (1B) or (1C)
13 areas. Neither the energy facility nor the transmission line or towers would affect any of the
14 inventoried sites.

15 Wetlands

16 The Comprehensive Plan identifies a 5,000-acre area around and including Port Westward as
17 Wetland Area Site 7. As required by Goal 5, the County identified the economic, social,
18 environmental, and energy consequences of protecting the wetlands. The expansion of
19 industrial activities at Port Westward was specifically identified as a potential conflicting
20 use, and the findings determined that allowing the conflicting industrial development will
21 have a positive impact on the economy in Columbia County. The County also found that the
22 relevant site would be protected as a riparian area due to its proximity to the Columbia River
23 and the Bradbury Slough. For that reason, the site was excluded from the Identified Wetland
24 Areas on the overlay zone.

25 Even though the site is excluded from the County's official Wetland Area Overlay, wetlands
26 on the facility site will be protected and enhanced in compliance with state and federal
27 regulations. There are five wetland sites located within the plant site area. Although a
28 minimal amount of filling will be necessary, the facility will avoid impacts to wetlands to the
29 maximum extent practical. Part of the energy facility and about 14 towers will need to be
30 constructed in wetlands, requiring about 0.43 acres of fill. Pursuant to a Removal/Fill
31 Permit, PGE will implement a comprehensive mitigation plan at a single site to compensate
32 for any necessary loss of wetland values at the energy facility site and along the transmission
33 corridor. All fill and mitigation activities will comply with state and federal laws.

34 Riparian Areas

35 Protection of riparian areas is addressed above in the discussion of CCZO § 1170.

36 Historic and Cultural Areas

37 The County has inventoried and classified areas of historic significance throughout the
38 county. The facility will not affect any of the sites identified in the County Inventory
39 Document or any of the (1C) sites listed in the Comprehensive Plan. No other significant

1 historic or cultural areas have been identified at the energy facility site or along the
2 transmission corridors.

3 Scenic Resources

4 Scenic resources will be protected to the greatest extent possible. Highway 30 from Deer
5 Island to Rainier is identified as a scenic resource in the Comprehensive Plan. Under the
6 Trojan option, the transmission line will cross Highway 30 near the Trojan Nuclear Power
7 Plant. The impact on the scenic resource will be negligible because of the existing
8 transmission lines crossing Highway 30 at that location.

9 **Air, Land, and Water Resources**

10 **Goal:** To maintain and improve land resources and the quality of the air and water of
11 the County.

12 The facility will satisfy this goal through its compliance with all applicable federal and state
13 standards.

14 Policies: It shall be the policy of Columbia County to:

15 1. Work with the appropriate State and Federal agencies to insure that State and
16 Federal water, air, and land resource quality standards are met.

17 The energy facility will be equipped with Best Available Control Technology to comply with
18 state and federal air quality standards. PGE will obtain both an Air Contaminant Discharge
19 Permit and Title V Operating Permit from the Department of Environmental Quality. PGE
20 will maintain air quality in the County by operating in compliance with these permits.

21 The energy facility will also comply with state and federal water quality requirements. PGE
22 will obtain an NPDES Stormwater Discharge General Permit to address erosion control for
23 construction activity. As part of this Order, the Council directs DEQ to issue a Water
24 Pollution Control Facilities permit for an On-Site Sewage Disposal System. PGE will
25 discharge cooling tower blowdown and process water from the energy facility to the
26 Columbia River through an outfall to be developed by the Port of St. Helens. The outfall will
27 be subject to an individual NPDES permit from DEQ.

28 2. Comply with all applicable State and Federal standards and regulations regarding
29 noise pollution.

30 The energy facility will comply with state noise regulations.

31 **V. CITY OF RAINIER**

32 **A. RAINIER ZONING ORDINANCE**

33 Under the Trojan option, the transmission line will pass through property near the southern
34 end of the City of Rainier before connecting with the Trojan Nuclear Plant. The property is
35 within the boundaries of the City of Rainier, but outside the city's Urban Growth Boundary.

1 This portion of Rainier is zoned Watershed Zone (W). The intent and purpose of this zoning
2 designation is to recognize and protect the watershed as a source of drinking water for the
3 residents of the City of Rainier. Rainier Zoning Ordinance (RZO) § 3.11. In the W zone
4 "limited public uses may be considered on a case-by-case basis as a conditional use, subject
5 to approval as a Type III Decision under the Conditional Use provisions of Section 6.4."
6 RZO § 3.11. "Public use" is defined in RZO § 1.3 as "a use intended or used for a public
7 purpose by the city, school district, county, state, or other public agency, or a public utility."
8 The transmission line will be owned and operated by a public utility; therefore, the line
9 qualifies as a public use and can be considered on a case-by-case basis as a conditional use.

10 **RZO § 6.4 Conditional Uses**

11 A. The use is listed as a conditional use in the zone which is currently applied to the
12 site;

13 In the W zone, a public use, such as the transmission line, may be considered a conditional
14 use.

15 B. The characteristics of the site are suitable for the proposed conditional use
16 considering the size, shape, location, topography, existence of improvements and
17 natural features.

18 The area through which the transmission line would pass is suitable for the transmission line
19 in light of existing improvements. The transmission line will be located in a new right-of-
20 way immediately adjacent to an existing BPA transmission corridor.

21 C. The proposed conditional use is adequately served by public facilities;

22 The transmission line will not require any additional public facilities.

23 D. The proposed conditional use will comply with the applicable policies of the
24 Rainier Comprehensive Plan; the Oregon Highway Plan, and the Columbia
25 County or Rainier Transportation System Plans; and

26 Compliance with the relevant Rainier Comprehensive Plan policies is discussed in detail
27 below. The transmission line will not permanently interfere with any roads or transportation
28 systems. Consequently, the proposed use complies with both the Oregon Highway Plan and
29 the Transportation System Plans.

30 E. The proposed conditional use will not create any hazardous or adverse conditions.

31 PGE is required to comply with all applicable safety standards for the new transmission line
32 and consult with the appropriate local fire districts and agencies to ensure that all necessary
33 safety precautions are taken. The transmission line will not create any hazardous or adverse
34 conditions.

1 **RZO § 6.7 Design Review**

2 It is not clear that RZO § 6.7 is applicable to transmission towers. This section is, however,
3 addressed below for purposes of completeness.¹⁵

4 F. That grading and contouring of the site will minimize the possible adverse effect of
5 grading and contouring on the natural vegetation and physical appearance of the site.

6 Any grading required for the towers will be minimal. PGE will revegetate any areas in the
7 transmission corridor disturbed by construction activities consistent with its NPDES 1200-C
8 permit.

9 G. That the proposed location and design of walls, fences, berms, signs, and lighting
10 does not adversely impact surrounding properties.

11 The transmission line will not require walls, fences, or berms. Any lighting and signs will be
12 consistent with safety requirements.

13 **B. CITY OF RAINIER COMPREHENSIVE PLAN**

14 The City's Comprehensive Plan contains policies that address overall planning goals adopted
15 by the City. Although the policy statements do not contain specific substantive criteria, we
16 discuss the relevant polices below for purposes of completeness.

17 **Goal 4 (Forest lands):** To conserve forest lands for forest use.

18 Policy 2: The portion of the city-owned watershed which extends outside of the UGB
19 shall be managed for protection of water quality values.

20 The transmission line and towers are consistent with the protection of water quality values.
21 The line itself would have no impact on water quality. The placement of towers would
22 involve minimal and temporary soil disturbance. Although the transmission line corridor
23 will be cleared of trees for safety reasons, the corridor will be revegetated, have minimal
24 impervious surface (only the tower footings), and would not involve storage or disposal of
25 wastes or other materials that could threaten water quality.

26 **Goal 5 (Open Spaces, Scenic and Historical Areas, and Natural Resources):** To
27 conserve open spaces and protect natural and scenic resources.

28 Policy 1: The City shall defer to state or federal agencies with inventories and permit
29 programs affecting wetlands, aquifers and wildlife habitat.

30 Impacts to wetlands will be subject to the permitting requirements of both the U.S. Army
31 Corps of Engineers and the Oregon Division of State Lands (the latter is addressed by the

¹⁵ The criteria in RZO § 6.7.A-E. are not applicable in that the transmission line will not require or provide public or private facilities, impact any streets or pedestrian ways (including the safety, level of traffic, or circulation thereon). The transmission line will not require off-street parking or loading facilities, common areas, buildings, or landscaping.

1 Council elsewhere in this Order). The facility will also be subject to the Council's Fish and
2 Wildlife Habitat standard, OAR 345-022-0060 and the Council's Threatened and Endangered
3 Species standard, OAR 345-022-0070. The transmission line would not have any impact on
4 aquifers.

5 Policy 7: The City shall identify and promote the preservation and protection of
6 historically and culturally significant structures, sites, objects and districts within
7 Rainier.

8 The City's Comprehensive Plan identifies specific historical sites and PGE has confirmed
9 with the City that the City has not identified any other historically or culturally significant
10 structures, sites, objects, and districts within Rainier. Under the Trojan option, the
11 transmission corridor would run through the Watershed zone. The sites identified in the
12 Comprehensive Plan are not located in the City's Watershed zone. If any artifacts or cultural
13 resources are encountered during construction of the transmission line, work in the vicinity
14 will be stopped until a qualified archaeologist can evaluate the significance of the resources.
15 If the resources are significant, work would not commence again in the vicinity of the find
16 until PGE demonstrates that it has complied with Oregon State Historic Preservation Office
17 (SHPO) permit requirements. (See Section D.11 of the Order.)

18
19 **Goal 6 (Air, Water, and Land Resources Quality):** To maintain and improve the
20 quality of the air, water and land resources of the State.

21 Policy 4: The city-owned watershed which extends outside of the Urban Growth
22 Boundary shall be zoned Watershed (W). The Zoning Ordinance shall restrict uses to
23 maintain the watershed.

24 As a public use, the transmission line qualifies as a conditional use under the zoning
25 ordinance. As demonstrated above, the transmission line satisfies each of the criteria applied
26 to conditional uses in the watershed zone.

27 Policy 6: Planning Commission review and approval of new development,
28 particularly in steep slope areas, shall focus on proper control of drainage to manage
29 storm runoff and erosion and protect the water quality of the streams.

30 PGE will use Best Management Practices to limit and control stormwater runoff during and
31 following construction of the transmission line, including revegetation of any disturbed areas
32 in the transmission corridor.

33 **Goal 7 (Areas Subject to Natural Disasters and Hazards):** To protect life and
34 property from natural disasters and hazards.

35
36 Policy 2: No construction of structures or roads will be allowed in known slide
37 hazard areas, on slopes exceeding 20 percent, or in flood hazard and drainage ways
38 without evidence submitted by a registered engineer to document that the proposed
39 construction can be accomplished safely.
40

1 If any towers will be located in known slide hazard areas, flood hazard areas, or drainage
2 ways, or on slopes exceeding 20 percent, PGE will be required to provide a geotechnical
3 report prepared by a registered engineer establishing that such construction can be
4 accomplished safely prior to commencing construction. (See Section D.5 of the Order.)
5

6 Policy 3: The Zoning Ordinance shall include a Geologic Hazard Overlay with
7 provisions for the review of development proposals on all lands within identified slide
8 hazard areas or on slopes exceeding 20 percent.
9

10 Policy 3 is implemented through the Geologic Hazard Overlay in RZO § 4.3. For
11 development within the Geologic Hazard Overlay, a proposal and geotechnical report must
12 be submitted to the City Engineer. Although the Watershed zone was not mapped with the
13 Geologic Hazard Overlay (because the development allowed in the zone is very limited), the
14 City has advised PGE that a geotechnical report would probably be required for development
15 in the Watershed zone.
16

17 Policy 4: The Zoning Ordinance shall include a Flood Hazard Overlay. The overlay
18 shall meet the standards which are necessary for the City's inclusion in the National
19 Floodplain Insurance Program.
20

21 Policy 4 is implemented by the Flood Hazard Overlay in RZO § 4.4. The segment of the
22 transmission line within the Watershed zone will not be located in a flood hazard overlay.
23

24 Policy 5: The Zoning Ordinance shall establish a Creek Greenway overlay that shall
25 extend 50 feet from the creek centerline of Beaver Creek, Nice Creek, Fox Creek and
26 Owl Creek. Within the Creek Greenway overlay, regulations shall limit
27 encroachment when there may be changes in stream flow patterns due to increased
28 storm water runoff.
29

30 Policy 5 is implemented by the Creek Greenway Overlay in RZO § 4.5. Fox Creek is the
31 only creek in the vicinity of the transmission line within the City of Rainier that is subject to
32 the Creek Greenway Overlay. Fox Creek runs roughly parallel to and several hundred feet
33 east of the transmission line.

34 **Goal 11 (Public Facilities and Services):** to plan and develop a timely, orderly and
35 efficient arrangement of public facilities and services to serve as a framework for
36 urban and rural development.

37 Policy 17: Utility facilities such as power substations, sewer pump stations, water
38 tanks and other similar uses shall be allowed as conditional uses in all zones except
39 the Watershed.

40 The transmission line does not appear to be a "utility facility" as that term is used in this
41 policy. The line is not a facility "such as" those described. Each of the uses listed requires
42 sizable surface development. The transmission line will involve only the minimal permanent

1 ground disturbance associated with the transmission towers.¹⁶ It will not adversely impact
2 water quality values protected by the Watershed zone.

3 **VI. DIRECTLY APPLICABLE STATE PROVISIONS**

4 OAR 345-022-0030(2)(b)(A) requires the facility to comply with new or amended statewide
5 planning goals, LCDC administrative rules, and land use statutes that are directly applicable
6 to the energy project under ORS 197.646(3).

7 **A. DIRECTLY APPLICABLE ADMINISTRATIVE RULES**

8 In 1994, LCDC adopted new land use rules and amended planning goals for farm and forest
9 zones, as set forth at OAR 660, Divisions 6 and 33. Columbia County has not yet amended
10 its Comprehensive Plan to implement the 1994 revisions. Pursuant to ORS 197.646(3), the
11 amended LCDC rules are directly applicable for purposes of this application. The new rules
12 do not apply to the energy facility, but only to those portions of the transmission line within
13 the PA, PF, or FA zones:

14 **1. Division 6 (Goal 4 Forest Lands)**

15 The following rules apply to those portions of the transmissions lines within the PF or FA
16 zones.

17 **OAR 660-006-0025 - Uses Authorized in Forest Zones**

18 (4) The following uses may be allowed on forestlands subject to the review standards
19 in section (5) of this rule:

20 (q) New electric transmission lines with right of way widths of up to 100 feet
21 as specified in ORS 772.210. * * *;

22 With the exception of the Summit interconnection, the Allston option will be located within
23 an existing right-of-way established prior to the 100-foot width limitation. The existing Port
24 Westward to BPA Allston Substation transmission line currently uses half the width of the
25 existing 250-foot right-of-way. The remaining 125 feet of width remains available for the
26 new line. As an existing corridor, it does not violate the 100-foot limitation provided in this
27 rule. However, even if the rule did apply to a new transmission line in an existing right-of-
28 way, the new line would meet the standards for an exception to Goal 4, as more fully
29 described below.

30 Under the Trojan option, the new line will be located within the existing right-of-way for
31 about 9 miles before diverging near the BPA Allston Substation to connect to the Trojan
32 Nuclear Plant. The second segment of the Trojan option and the Summit interconnection to
33 the BPA Allston Substation, will both require a new right-of-way through forest lands. This
34 new right-of-way will be limited to 125 feet in width. An exception to Goal 4 will be
35 required.

¹⁶ PGE has confirmed this interpretation with the City.

1 (5) A use authorized by section (4) of this rule may be allowed provided the
2 following requirements or their equivalent are met. These requirements are designed
3 to make the use compatible with forest operations and agriculture and to conserve
4 values found on forest lands:

5 (a) The proposed use will not force a significant change in, or significantly
6 increase the cost of, accepted farming or forest practices on agriculture or
7 forest lands;

8 Electrical transmission lines are a low intensity use that has a limited impact on surface uses
9 such as farming or forestry. This is especially true when a new line can be located within or
10 near an existing corridor. The Allston option and the first segment of the Trojan option will
11 be located within the existing utility right-of-way between Port Westward and the BPA
12 Allston Substation. The surrounding farm and forest uses must already honor the corridor's
13 boundaries. Any limitation of resource practices within this area already exists.
14 Consequently, a new line within this corridor will not significantly change existing practices
15 or increase costs beyond current levels.

16 The second segment of the Trojan option will require the creation of a new 125-foot right-of-
17 way between the existing Port Westward to BPA Allston Substation corridor and the Trojan
18 Nuclear Plant. A new 125-foot right-of-way will also be needed for the interconnection of
19 the Summit line at the BPA Allston Substation. The second segment of the Trojan option
20 will be parallel and immediately adjacent to the existing BPA Trojan to BPA Allston
21 Substation right-of-way and will, therefore, be in an area that is already impacted by a utility
22 corridor. The overall effect on forest harvesting and management is thereby minimized
23 because the overall disturbance area is limited to a relatively narrow section of the County's
24 forest lands. The Summit interconnection will be in the immediate vicinity of the BPA
25 Allston Substation in an area that is already developed with and impacted by transmission
26 lines, corridors, and easements. Therefore, a new electrical transmission line and 125-foot
27 corridor would neither significantly change forest management practices nor increase their
28 cost.

29 (b) The proposed use will not significantly increase fire hazard or
30 significantly increase fire suppression costs or significantly increase risks to
31 fire suppression personnel; and

32 The new transmission lines will be located within a corridor cleared of vegetation that could
33 interfere with the line or present a fire danger due to proximity to the line.

34 (c) A written statement recorded with the deed or written contract with the
35 county or its equivalent is obtained from the land owner which recognizes the
36 rights of adjacent and nearby land owners to conduct forest operations
37 consistent with the Forest Practices Act and Rules for uses authorized in
38 subsections (4)(e), (m), (s), (t) and (w) of this rule.

39 PGE will (as holder of the transmission corridor easement) enter into a contract with the
40 County recognizing the right of adjacent landowners as required by this provision. (See
41 Section D.4 of this Order.)

1 **OAR 660-006-0029 - Siting Standards for Dwellings and Structures in Forest Zones**

2 The following siting criteria or their equivalent shall apply to all new dwellings and
3 structures in forest and agriculture/forest zones. These criteria are designed to make
4 such uses compatible with forest operations and agriculture, to minimize wildfire
5 hazards and risks and to conserve values found on forest lands. A governing body
6 shall consider the criteria in this rule together with the requirements in OAR 660-006-
7 0035 to identify the building site:

- 8 (1) Dwellings and structures shall be sited on the parcel so that:
- 9 (a) They have the least impact on nearby or adjoining forest or agricultural
10 lands;
 - 11 (b) The siting ensures that adverse impacts on forest operations and
12 accepted farming practices on the tract will be minimized;
 - 13 (c) The amount of forestlands used to site access roads, service corridors,
14 the dwelling and structures is minimized; and
 - 15 (d) The risks associated with wildfire are minimized.

16 The transmission towers are considered structures for purposes of this rule. With the
17 exception of the Summit interconnection, all of the transmission towers required by the
18 Allston option (and first segment of the Trojan option) will be located within an existing
19 250 foot-wide corridor. Placing the towers in this corridor ensures that they will have the
20 least possible impact on surrounding forest or agricultural uses. The towers required for the
21 second segment of the Trojan option will be located within a new right-of-way. The new
22 right-of-way will be parallel and immediately adjacent to an existing BPA transmission
23 corridor. The area is already disturbed by an existing right-of-way. A new right-of-way is
24 also required for the Summit interconnection, which will also be in an area that is already
25 disturbed by the BPA Allston Substation and related transmission facilities. For that reason,
26 any additional impacts on forestry or agricultural uses within the area will be greatly reduced.
27 The new corridor would be developed to the minimum width necessary, further reducing
28 impacts on surrounding forest management activities. The new transmission lines will be
29 located within a corridor cleared of vegetation that could interfere with the line or present a
30 fire danger due to proximity to the line.

31 **OAR 660-006-0035 - Fire Siting Standards for Dwellings and Structures¹⁷**

32 The following fire siting standards or their equivalent shall apply to new dwelling or
33 structures in a forest or agriculture/forest zone:

- 34 (3) The owners of the dwellings and structures shall maintain a primary fuel-free break
35 area surrounding all structures and clear and maintain a secondary fuel-free break area in
36 accordance with the provisions in "Recommended Fire Siting Standards for Dwellings

¹⁷ Subsections (1), (2), (4), (5), and (6) of this rule apply only to dwellings. Therefore, they are not applicable to the proposed transmission line. Only subsection (3) is applicable to this Application.

1 and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and
2 published by the Oregon Department of Forestry.

3 The towers will meet the fire break requirement of subsection (3) because they will each be
4 located within a cleared corridor that varies in width from 250 feet to 125 feet.

5 **2. Division 33 (Agricultural Land)**

6 The Port Westward tract is surrounded by land zoned PA-38. As a result, one segment of the
7 transmission line will be located within the PA-38 zone.

8 **OAR 660-033-0120 - Uses Authorized on Agricultural Lands¹⁸**

9 OAR 660-033-0120 (Table 1) identifies "utility facilities necessary for public service" among
10 the uses allowed, provided they comply with the standards listed in OAR 660-033-0130.

11 OAR 660-033-0120 (Table 1) lists "utility facilities necessary for public service" as an "R"
12 or allowable use on agricultural lands on both high-value and other farmland subject to the
13 minimum standards found in OAR 660-033-0130(16).¹⁹

14

15 As explained in the discussion of OAR 660-033-0130(16) below, the transmission line
16 qualifies as a use necessary for public service because in order to transmit electricity from the
17 new energy facility to a regional substation it will be necessary to cross at least some
18 agricultural land.

19 **OAR 660-033-0130 - Minimum Standards Applicable to the Schedule of Permitted and**
20 **Conditional Uses**

21 (16) A facility is necessary if it must be situated in an agricultural zone in order for
22 the service to be provided.

23 The segment of the transmission line within the PA-38 zone qualifies as a necessary facility
24 under this provision because the transmission line must be partially located within an
25 agricultural zone in order to transmit electricity from the energy facility to a regional
26 substation. The Port Westward site is completely surrounded by PA-38 zoned properties.
27 Electricity from the energy facility cannot be conveyed to any location within the state of
28 Oregon without crossing an agricultural zone.²⁰

29 **B. ORS 215.275**

30 In 1999, the Legislature enacted ORS 215.275 into law to clarify when a utility facility is
31 "necessary for public service" as that phrase is used in 215.283(1)(d). Subsequent to the
32 passage of this law, any applicant wishing to site a utility facility on EFU lands pursuant to

¹⁸ OAR 660-033-0090 provides that uses on high-value farmland shall be limited to those specified in OAR 660-033-0120. See response to OAR 660-33-120, below. OAR 660-033-0100 is not applicable because this application does not involve the creation of new parcels.

¹⁹ Transmission towers over 200 feet in height are subject to different standards. None of new towers will exceed 200 feet.

²⁰ The criteria for demonstrating compliance with (16) are the same as those identified and addressed in the discussion of ORS 215.275, below.

1 ORS 215.283(1)(d) must establish that the facility is in fact “necessary for public service”
2 according to the standards set forth in ORS 215.275.

3 "A utility facility established under ORS 215.283(1)(d) is necessary for public service if the
4 facility must be sited in an exclusive farm use zone in order to provide the service." ORS
5 215.275(1). ORS 215.275(2) provides as follows:

6 To demonstrate that a utility facility is necessary, an applicant for approval under ORS
7 215.283 must show that reasonable alternatives have been considered and that the facility
8 must be sited in an exclusive farm use zone due to one or more of the following factors:

9 (a) Technical and engineering feasibility;

10 (b) The proposed facility is locationally dependent. A utility facility is locationally
11 dependent if it must cross land in one or more areas zoned for exclusive farm use in order
12 to achieve a reasonably direct route or to meet unique geographical needs that cannot be
13 satisfied on other lands;

14 (c) Lack of available urban and non-resource lands;

15 (d) Availability of existing rights-of-way;

16 (e) Public health and safety; and

17 (f) Other requirements of state or federal agencies.

18 A short segment of the transmission line that would connect the generating facility to either
19 the BPA Allston Substation or the Trojan Nuclear Plant is located within the PA-38 zone.
20 The transmission line is locationally dependent because it must cross PA-38 zoned lands in
21 order to achieve a reasonably direct transmission route. The Port Westward tract is
22 surrounded on three sides by PA-38 zoned land, and on the fourth by the Columbia River.
23 PA-38 zoned properties border Port Westward on the south and the west. The Bradbury
24 Slough is located directly east of the tract, but Crims Island, which is zoned PA-38 as well, is
25 located across the slough. North of the tract, the Columbia River separates Port Westward
26 from the State of Washington. In order to provide energy via a transmission line to any
27 location in Oregon (beyond the Port Westward tract itself), the line must cross EFU land.

28 The transmission line also qualifies as a utility facility necessary for public use under factor
29 (d). Although located in the PA-38 zone, the transmission line will be located entirely within
30 the existing Port Westward to BPA Allston Substation transmission corridor. Rather than
31 creating a new right-of-way, PGE has chosen to mitigate impacts on surrounding PA-38
32 zoned lands by using the only existing right-of-way leading from the Port Westward tract.

33 **ORS 215.275(4) and (5): Restoration and Mitigation Requirements**

34 ORS 215.275(4) requires the owner of a utility facility approved under ORS 215.283(1)(d) to
35 be responsible for restoring, as nearly as possible to its former condition, any agricultural
36 land and associated improvements that are damaged or otherwise disturbed by the siting,
37 maintenance, repair, or reconstruction of the facility. PGE has developed mitigation

1 measures to address any soil disturbance of agricultural and non-resource lands. These
2 mitigation measures will be implemented to ensure that the EFU land is restored, as nearly as
3 possible, to its former condition.

4 As required by ORS 215.275(5), the mitigation measures would prevent any significant
5 change in accepted farming practices and would ensure that the new transmission line and
6 associated towers do not cause a significant increase in the cost of farm practices on the
7 surrounding farm lands. Any constraints on farming activities already exist because of the
8 existing transmission facilities in the area.

9 **VII. EXCEPTION TO STATEWIDE PLANNING GOAL 4**

10 Under the Goal 4 implementing rule, OAR 660-006-0025(4), certain uses may be allowed on
11 forest lands subject to the review standards of OAR 660-006-0025(5). The uses allowed
12 include: “New electric transmission lines with right of way widths of up to 100 feet as
13 specified in ORS 772.210.” OAR 660-006-0025(4)(q). PGE has, however, requested
14 Council approval for a transmission corridor with a width of 125 feet, 25 feet wider than the
15 right-of-way allowed under OAR 660-006-0025(4)(q).²¹

16 PGE has requested a “reasons” exception under ORS 469.504(2)(c) and OAR 345-022-
17 0030(4)(c). The exception is to allow a new transmission corridor with a width of 125 feet in
18 the County’s PF-76 and FA-19 zones. The new transmission corridor is principally from
19 BPA Allston Substation to Trojan, but would also include new corridor required to connect a
20 transmission line for the Summit Energy Facility to the BPA Allston Substation. A Goal 4
21 exception does not appear to be required in order to construct transmission facilities on forest
22 land within PGE’s existing right-of-way from Port Westward to the BPA Allston Substation.
23 These facilities would, however, also qualify for an exception to Goal 4 for the reasons
24 described in this section.

25 Pursuant to ORS 469.504(2)(c), the Council may take an exception to a statewide planning
26 goal if it finds that the following standards are met:

- 27 (A) Reasons justify why the state policy embodied in the applicable
28 goal should not apply;
- 29 (B) The significant environmental, economic, social and energy
30 consequences anticipated as a result of the proposed facility
31 have been identified and adverse impacts will be mitigated in
32 accordance with rules of the Council applicable to the siting of
33 the proposed facility; and
- 34 (C) The proposed facility is compatible with other adjacent uses or
35 will be made compatible through measures designed to reduce
36 adverse impacts.

²¹ The proposed transmission line could comply with the review standards of OAR 660-006-0025(5) as discussed in section VI.A.1.

1 **A. Reasons justify why the state policy embodied in the applicable goal**
2 **should not apply.**

3 The stated purpose of Goal 4 is:

4 “To conserve forest lands by maintaining the forest land base
5 to protect the state’s forest economy by making possible
6 economically efficient forest practices that assure the
7 continuous growing and harvesting of forest trees as a leading
8 use on forest land consistent with sound management of soil,
9 air, water, and fish and wildlife resources and to provide for
10 recreational opportunities and agriculture.” OAR 660-015-
11 0000(4).

12 Goal 4 provides that “locationally dependent uses” are allowed subject to review standards.
13 Goal 4 also states: “Maximum utilization of utility rights-of-way should be required before
14 permitting new ones.” The transmission line and interconnection are locationally dependent
15 uses. Just as it is not possible to develop a transmission line that avoids EFU land, it is also
16 not possible to develop a transmission line that connects to the regional grid yet avoids forest
17 land. The BPA Allston Substation is on land zoned PF-76 and the east side of the substation
18 (on which the vacant bay is located) is zoned FA-19. PGE is using existing utility right-of-
19 way where it is available (from Port Westward to BPA Allston Substation).

20 From BPA Allston Substation to Trojan, the existing BPA right-of-way has no room for
21 additional transmission lines; therefore, new right-of-way is necessary. The existing
22 125-foot right-of-way is occupied by two 230 kV transmission lines in a double circuit
23 configuration on lattice towers. The towers are designed for double circuit and cannot carry
24 additional lines. The 125-foot right-of-way cannot accommodate additional towers (given
25 the required separation between high voltage transmission lines).

26 In support of its assertion that the BPA Allston Substation to Trojan transmission line
27 segment is necessary, PGE submitted the “Programmatic System Impact Study for
28 Generators and Canadian Import in the I-5 Corridor,” prepared by PowerWorld Corporation
29 for BPA in March 2002. The report analyzed the impact on the transmission line grid of
30 14 proposed power projects. Each of the proposed projects was added incrementally to the
31 circuit model in the same order as the interconnection requests to BPA. PWGP is No. 14, the
32 last project on the list. For each incremental step, the study looked at the normal power
33 flows over the grid and the power flows under likely aberrant conditions (“contingency”).

34 The study found that the first proposed generating project in the queue, the Summit Project,
35 makes necessary the proposed transmission line segment from the BPA Allston Substation to
36 Trojan with continuation to St. Mary’s Substation in Portland. (The segment from Trojan to
37 St. Mary’s Substation is not a related or supporting facility for PWGP.) That means the
38 transmission line segment from the BPA Allston Substation to Trojan would be needed even
39 if PWGP were not built. Therefore, building the transmission line as part of PWGP meets
40 not only the need of that project but helps solve a larger grid overload problem.

1 PGE is seeking to minimize disruption of forest practices by locating the new right-of-way
2 immediately adjacent to the existing BPA transmission corridor, i.e. in an area where forest
3 practices are already limited by the presence of high voltage transmission lines and towers.
4 PGE will construct transmission structures that can carry two circuits. From Port Westward
5 to BPA Allston Substation, the transmission structures will carry the transmission line for the
6 Port Westward Generating Project as well as for the Summit Energy Project. From BPA
7 Allston Substation to Trojan, the structures will have the capacity to handle an additional
8 transmission line (i.e. in addition to the line for the Port Westward Generating Project). This
9 will maximize the ability to use that right-of-way in the future, before developing additional
10 right-of-way.

11 Thus, the transmission corridor generally meets the Goal 4 requirement as a locationally
12 dependent use and for maximum use of existing rights-of-way. The issue under Goal 4 is the
13 width of the transmission right-of-way.

14 As noted above, OAR 660-006-0025(4)(q) allows: “New electric transmission lines with
15 right of way widths of up to 100 feet as specified in ORS 772.210.” ORS 772.210
16 recognizes, however, that a right-of-way of 100 feet is not always adequate. The statute
17 concerns the condemnation of land by public utilities. ORS 772.210(1)(b) authorizes any
18 public utility or electrical cooperative association to:

19 “Condemn [lands within the state] not exceeding 100 feet in
20 width for its lines (including poles, towers, wires, supports and
21 necessary equipment therefor) and in addition thereto, other
22 lands necessary and convenient for the purpose of construction
23 of service facilities; and if the lands are covered by trees which
24 are liable to fall and constitute a hazard to its wire or line, any
25 public utility organized for the purpose of building,
26 maintaining and operating a line or poles and wires for the
27 transmission of electricity for lighting or power purposes, may
28 condemn such trees for a width not exceeding 300 feet, as may
29 be necessary or convenient for such purpose.” (Emphasis
30 added).

31 In other words, the statute cited in the Goal 4 rule as a basis for limiting rights-of-way to a
32 width of 100 feet actually provides for clearing of trees in a much wider area where “the
33 lands are covered by trees which are liable to fall and constitute a hazard” to the transmission
34 line. By locating the new transmission lines in or adjacent to existing transmission corridors,
35 PGE is effectively reducing the need to clear additional trees on forest land, because “danger
36 trees” (trees with a potential to damage transmission lines) would already be removed
37 adjacent to PGE’s existing Port Westward to BPA Allston Substation transmission line and
38 BPA’s existing BPA Allston Substation to Trojan lines. Thus, PGE will not need to clear
39 trees to the maximum width of 300 feet allowed by ORS 772.210. However, PGE needs to a
40 right-of-way of 125 feet to remove danger trees and maintain the flexibility to locate the

1 transmission line within the corridor in a manner that reduces conflicts with wetlands and
2 other significant resources.²²

3 **B. The significant environmental, economic, social and energy consequences**
4 **anticipated as a result of the proposed facility have been identified and**
5 **adverse impacts will be mitigated in accordance with rules of the Council**
6 **applicable to the siting of the proposed facility.**

7 Environmental Consequences

8 The environmental consequences of development of the transmission corridor are evaluated
9 in detail in the ASC, which includes exhibits that evaluate, among other things, soil
10 conditions, and potential impacts to wetlands, fish and wildlife habitat, threatened and
11 endangered species, and visual quality and aesthetics. The applicable Council standards have
12 been met and PGE has established that any adverse impacts will be mitigated as required by
13 the Council's rules and other applicable state laws.

14 Economic Consequences

15 The development of the transmission line will create a positive economic impact in that it
16 will transmit energy to the regional grid from the Port Westward Generating Project. The
17 additional right-of-way width will enhance PGE's ability to manage vegetation in the
18 transmission corridor and, specifically, to remove trees that pose a threat to the transmission
19 line.

20 The primary adverse economic impact will be a loss of potential timber harvest in areas of
21 the transmission corridor that are being managed for commercial timber production in the
22 additional 25 feet of right-of-way that would be allowed through this exception request.
23 Oregon law accounts for damage to forest growth and timber in the condemnation of utility
24 right-of-way. ORS 772.210(4). Thus, the property owner (or the owner of the timber, if
25 different from the owner of the land) will be compensated for that damage.

26 Social Consequences

27 The construction of the transmission lines is not anticipated to have significant adverse social
28 consequences. The transmission lines do not create any additional demands for public
29 facilities or services. In addition, development of the transmission lines does not represent
30 the introduction of a new use into the area. The transmission lines will be placed in or

²² Condemnation of trees under ORS 772.210 is inadequate as an alternative to acquisition of right-of-way for several reasons. As an initial matter, PGE would need to identify the particular hazard trees needing removal and then prove that the identified trees are "liable to fall and constitute a hazard." The time potentially required for condemnation after PGE identifies a risk is unacceptable. Moreover, PGE would need to pursue condemnation of trees not only at the time of construction but repeatedly over the life of the transmission line as new trees mature and become "hazard trees." Condemnation of trees does not give the condemnor rights in the underlying land. Thus, PGE would not be able to prevent the property owner from planting or replanting trees in or near locations where hazard trees have already been removed.

1 adjacent to existing transmission corridors; thus, the development of the transmission lines
2 will not significantly alter farm or forest practices or other social, household or recreational
3 activities in the area.

4 Energy Consequences

5 The transmission line would provide a connection to the regional grid for the Port Westward
6 Generating Project. As discussed above, a 125-foot right-of-way will allow PGE to maintain
7 adequate control over vegetation that may present a danger to the transmission facilities
8 (mature conifers, in particular). Furthermore, the requested exception will contribute to a
9 more reliable energy system, as shown in the BPA system impact study. There are no
10 significant adverse energy consequences of the proposed use.

11 **C. The proposed facility is compatible with other adjacent uses or will be**
12 **made compatible through measures designed to reduce adverse impacts.**

13 The BPA Allston Substation to Trojan transmission line would be located parallel to and
14 immediately adjacent to the existing BPA right-of-way. Thus, the BPA transmission lines
15 are an adjacent use. The only measures necessary to ensure compatibility with the BPA
16 right-of-way are those needed to maintain adequate separation between BPA power lines and
17 the new transmission line.

18 The other principal adjacent use is commercial timber management. As discussed above, the
19 exception arises in large measure from the need to minimize conflicts with activities that may
20 allow “danger trees” adjacent to the transmission line. In other words, PGE’s control and
21 management of a 125-foot wide right-of-way would itself be the primary means of mitigating
22 conflicts. Clearing of vegetation under the transmission line serves not only to protect the
23 line, but also to reduce the danger of fire should a transmission line be damaged.

24 Finally, there are some residences in the area of the transmission corridor. Any incompatible
25 structures or uses in the transmission right-of-way will be removed as part of the
26 development of the transmission facilities and property owners will be compensated when
27 PGE acquires the right-of-way. In addition, mandatory conditions in the site certificate will
28 require that PGE: (1) restore reception of radio and television at residences or commercial
29 establishments in the primary reception area to the level present prior to operations of the
30 transmission line; (2) design, construct and operate the transmission line in accordance with
31 the requirements of the National Electrical Safety Code; and (3) develop and implement a
32 program that provides reasonable assurance that all fences, gates, cattle guards, trailers, or
33 other objects or structures of a permanent nature that could become inadvertently charged
34 with electricity are grounded or bonded throughout the lifetime of the line. OAR 345-024-
35 0090(2) also requires that the transmission line be designed, constructed and operated so that
36 the induced currents will be as low as reasonably achievable.

37 **VII. FEDERAL LAND MANAGEMENT PLANS**

38 The energy facility and the majority of the transmission lines will not be located on lands
39 under federal land use jurisdiction. At least one transmission line will connect to the BPA
40 Allston Substation, which is located on federal land. BPA has not adopted a federal land

1 management plan for the substation. As a result, there are no federal consistency
2 requirements applicable to the Facility.

3 **VIII. CONCLUSION**

4 Based on the foregoing analysis and subject to conditions proposed in the Order, the Council
5 finds that an exception to Goal 4 is justified and that PGE has demonstrated compliance with
6 all other applicable criteria in the County's and the City's acknowledged comprehensive
7 plans and land use regulations that are required by the statewide planning goals and were in
8 effect on the date the application was submitted, as well as any statewide planning goals,
9 LCDC administrative rules and land use statutes directly applicable to the facilities under
10 ORS 197.646(3).

1 **Attachment A**
2 **Site Certificate**
3 **Port Westward Generating Project**

4
5 **MEMORANDUM OF UNDERSTANDING**
6 **THE CLIMATE TRUST AND PORTLAND GENERAL ELECTRIC COMPANY**
7 **CARBON DIOXIDE STANDARD IMPLEMENTATION**
8 **MONETARY PATH PAYMENT REQUIREMENT**
9

10 [If the parties agree, they may substitute a bond for the letter of credit.]

11
12 THIS MEMORANDUM OF UNDERSTANDING (this “Agreement”) is entered into as of the
13 ___ day of _____, 200_, by and between Portland General Electric Company (the “Project
14 Owner”) in its capacity as owner of the Port Westward Generating Project, and The Climate
15 Trust (“The Trust”).

16
17 **RECITALS**
18

- 19 1. The Project Owner intends to design, finance, construct, own and operate a natural
20 gas-fired combined-cycle combustion turbine electric generating facility with a base-load
21 net electric power output of about 560 MW and a peaking net electric power output of about
22 650 MW near the City of Clatskanie, Oregon. The facility, together with its ancillary
23 systems, shall be referred to herein as the “Project.”
24
- 25 2. The State of Oregon requires new energy facilities to meet a carbon dioxide emissions
26 standard as described in OAR 345-024-0550 through -0710.
27
- 28 3. As a condition to the siting of the Project, the Project Owner is required to provide offset
29 funds (“Offset Funds”) and selection and contracting funds (“Selection and Contracting
30 Funds”) to The Trust. In accordance with Section D.15 of the Site Certificate for the Port
31 Westward Generating Project (the “Site Certificate”) that the Oregon Energy Facility Siting
32 Council (the “Council”) granted to the Project Owner, dated November 8, 2002, the Project
33 Owner shall establish a third-party letter of credit (the “Letter of Credit”) in The Trust’s
34 name, acceptable to the Council, sufficient to meet the monetary path requirement. Under
35 the terms and conditions of this Agreement, the monetary path payments will be disbursed
36 to The Trust as specified in the Site Certificate and then by The Trust as specified in OAR
37 345-024-0710.
38
- 39 4. The Trust is a qualified organization within the meaning of OAR 345-001-0010(46).
40

41 NOW, THEREFORE, in consideration of the premises and mutual promises herein contained,
42 the parties hereto agree as follows:

- 43
44 **1. Initial Base-Load Monetary Path Payment and Initial Power Augmentation Monetary**
45 **Path Payment.**

- 1
2 1.1 The Project Owner has used the monetary path payment requirement calculations
3 described in Section D.15 of the Site Certificate to calculate the Initial Base-Load
4 Monetary Path Payment amount and has submitted them to the Oregon Office of
5 Energy (the “Office”) for verification. The Trust acknowledges that the calculation
6 of the Initial Base-Load Monetary Path Payment in fourth quarter, 2002 dollars
7 presented in Appendix A is correct and consistent with the Site Certificate.
8
- 9 1.2 The Project Owner has used the monetary path payment requirement calculations
10 described in Section D.15 of the Site Certificate to calculate the Initial Power
11 Augmentation Monetary Path Payment amount and has submitted them to the Office
12 for verification. The Trust acknowledges that the calculation of the Initial Power
13 Augmentation Monetary Path Payment in fourth quarter, 2002 dollars presented in
14 Appendix A is correct and consistent with the Site Certificate.
15
- 16 1.3 The Site Certificate requires that the Selection and Contracting Funds portion of both
17 the Initial Base-Load Monetary Path Payment and the Initial Power Augmentation
18 Monetary Path Payment be adjusted for inflation to the date of disbursement to The
19 Trust using the U.S. Gross Domestic Product Implicit Price Deflator, Chain-Weight,
20 published in the then current “Oregon Economic and Revenue Forecast” (the
21 “Index”). The Project Owner shall pay to The Trust the Inflation-Adjusted Selection
22 and Contracting Funds in the amount of \$_____ contemporaneously with
23 execution of this Agreement. The Trust acknowledges that the calculations of the
24 Inflation-Adjusted Selection and Contracting Funds presented in Appendix A are
25 correct and consistent with the Site Certificate.
26
- 27 1.4 Based on the verified calculations of the Initial Base-Load Monetary Path Payment
28 and the Initial Power Augmentation Monetary Path Payment set forth in Appendix A,
29 the Project Owner shall pay to the Trust \$_____ in Offset Funds in fourth
30 quarter, 2002 dollars pursuant to Section 1.6 below. The Site Certificate requires that
31 the Offset Funds portion of both the Initial Base-Load Monetary Path Payment and
32 the Initial Power Augmentation Monetary Path Payment be adjusted for inflation
33 from the fourth quarter, 2002, to the date of disbursement to The Trust using the
34 Index.
35
- 36 1.5 The Project Owner shall establish a Letter of Credit in the amount of \$_____ in
37 favor of The Trust, in the form attached as Appendix B to this Agreement. The
38 effective date of the Letter of Credit shall be _____, 200_. The Trust shall be
39 entitled to draw the entire amount of the Offset Funds secured by the Letter of Credit.
40 The Project Owner shall pay the costs of establishing and maintaining the Letter of
41 Credit and shall pay any transaction fees assessed by the issuer of the Letter of Credit.
42
- 43 1.6 The Trust shall have the right to draw Offset Funds upon execution of a letter of
44 intent to acquire an offset project. At the sole discretion of The Trust, the amount of
45 Offset Funds drawn may correspond to the entire amount of Offset Funds available.
46 The Trust may request less than the entire amount of the Offset Funds, but in no case

1 shall the cumulative amount of all requests exceed the total Monetary Path Payment
2 Requirement, as adjusted for inflation.
3

4 **2. Year One True-Up Base-Load Monetary Path Payment and Year One True-Up**
5 **Power Augmentation Monetary Path Payment.**
6

7 2.1 The Project Owner shall, within 30 days of filing its Year One Test reports to
8 Council, calculate the Year One True-Up Base-Load Monetary Path Payment, if any,
9 and the Year One True-Up Power Augmentation Monetary Path Payment, if any, as
10 required by Section D.15 of the Site Certificate. The Project Owner shall submit
11 these calculations to the Oregon Office of Energy for verification, as required by
12 Section D.15 of the Site Certificate.
13

14 2.2 Both the Year One True-Up Base-Load Monetary Path Payment and Year One True-
15 Up Power Augmentation Monetary Path Payment, if any, shall be adjusted for 2002
16 dollars from the calendar quarter of the Site Certificate approval to the Disbursement
17 Date using the Index.
18

19 2.3 If any Year One True-Up Base-Load Monetary Path Payment and/or Year One True-
20 Up Power Augmentation Monetary Path Payment is due, the Project Owner shall pay
21 this amount directly to The Trust within 30 days of filing its Year One Test report to
22 the Council.
23

24 2.4 In no case shall the calculations of this Section 2 cause the funding for the Initial
25 Base-Load Monetary Path Payment and the Initial Power Augmentation Monetary
26 Path Payment made available to The Trust by the Letter of Credit to diminish.
27

28 **3. Periodic Five-Year Power Augmentation Monetary Path Payments.**
29

30 3.1 Each five years after beginning commercial operation, the Project Owner shall report
31 the annual average hours of usage of power augmentation to the Office as required by
32 Section D.15 of the Site Certificate.
33

34 3.2 If the Office of Energy determines that there are excess emissions for the five-year
35 report period, the Office will specify the amount of Selection and Contracting Funds
36 and Offset Funds that the Project Owner shall make available to The Trust. Each
37 Periodic Five-Year Power Augmentation Monetary Path Payment, if any, shall be
38 adjusted for inflation from fourth quarter, 2002, to the Disbursement Date using the
39 Index.
40

41 3.3 For any Periodic Five-Year Power Augmentation Monetary Path Payment, the
42 Selection and Contracting Funds shall equal 20 percent of the value of any Offset
43 Funds up to the first \$250,000 (in 2002 dollars) and 4.286 percent of the value of any
44 Offset Funds in excess of \$250,000 (in 2002 dollars).
45

1 3.4 The Project Owner shall disburse to The Trust the specified amount of any Periodic
2 Five-Year Monetary Path Payment within 30 days of its notification by the Office of
3 the amount that the Project Owner owes.
4

5 **4. Undertaking by The Trust.**
6

7 4.1 The Trust shall use the Initial Base-Load Monetary Path Payment and Initial Power
8 Augmentation Monetary Path Payment, as well as any Year One True-Up Base-Load
9 Monetary Path Payment, Year One True-Up Power Augmentation Monetary Path
10 Payment, and/or Periodic Five-Year Power Augmentation Monetary Path Payments
11 in accordance with OAR 345-024-0710.
12

13 4.2 With respect to the Offset Funds portions of any Initial Base-Load Monetary Path
14 Payment, Initial Power Augmentation Monetary Path Payment, Year One Base-Load
15 Monetary Path Payment, Year One Power Augmentation Monetary Path Payment,
16 and/or Periodic Five-Year Power Augmentation Monetary Path Payments, The Trust
17 shall spend at least 80 percent of the Offset Funds for contracts to implement offsets,
18 and may use up to 20 percent of the Offset Funds for monitoring, evaluation,
19 administration, and enforcement of contracts to implement offsets.
20

21 4.3 The Selection and Contracting Funds portions of any Initial Base-Load Monetary
22 Path Payment, Initial Power Augmentation Monetary Path Payment, Year One Base-
23 Load Monetary Path Payment, Year One Power Augmentation Monetary Path
24 Payment, and/or Periodic Five-Year Power Augmentation Monetary Path Payments
25 shall compensate The Trust for its costs of selecting offsets and contracting for the
26 implementation of offsets and administrative costs related to operating The Trust as a
27 qualified organization.
28

29 4.4 The Trust shall use its best efforts to remain a qualified organization, as defined in
30 OAR 345-001-0010(45), until The Trust has used all funds received from the Project
31 Owner.
32

33 4.5 The Trust shall notify the Project Owner of its intent to draw on the Letter of Credit at
34 least one week before making a draw.
35

36 **5. Limited Obligation of Project Owner.**
37

38 The Trust acknowledges that, pursuant to OAR 345-024-0710(3), that the Project
39 Owner and the Project shall have no obligation with regard to offsets for the Project
40 other than to make available to The Trust the total amount of the monetary path
41 payments.
42

43 **6. Limited Participation by Project Owner in The Trust Decision Making.**
44

45 The Project Owner shall appoint one nonvoting member to the Board of Directors of
46 The Trust for a term lasting until The Trust has completed the contracting for the

1 offset funds provided by the Project Owner. The Project Owner shall have no
2 approval rights over The Trust's offset contracts, disbursement of Offset Funds, or
3 other day-to-day operations of The Trust.
4

5 **7. Project Owner Agreement to Indemnify and Hold The Trust Harmless.**
6

7 The Project Owner agrees to defend, hold harmless and indemnify The Trust from
8 and against any and all claims, costs, liabilities, and expenses of any nature
9 whatsoever, including reasonable attorneys' fees, resulting from or arising out of any
10 failure by the Project Owner to make any payments required by this Agreement, or to
11 establish the Letter of Credit described in Section 1.5 in a timely manner;
12 PROVIDED, that the maximum amount of the Project Owner's liability to The Trust
13 for claims, costs, liabilities and expenses, including attorneys' fees, arising out of the
14 failure to make a payment or establish the Letter of Credit required by this Agreement
15 in a timely manner shall not exceed twice the differential between the amount payable
16 to The Trust on a particular date and the amount actually paid or made available to
17 The Trust on or before that date. FURTHER PROVIDED, The Trust must make
18 reasonable efforts to mitigate any losses, liabilities or expenses for which it seeks
19 indemnification from the Project Owner.
20

21 **8. General Provisions.**
22

23 8.1 Governing Law: This Agreement shall be governed by and construed in accordance
24 with the laws of the State of Oregon. Any ambiguity that may arise under this
25 Agreement shall be given a fair and reasonable construction in accordance with the
26 intention of the parties and without regard to which party caused or is deemed to have
27 caused such ambiguity to exist.
28

29 8.2 Amendments and Waivers: This Agreement may not be modified, supplemented,
30 altered or amended, nor any provision hereof or rights hereunder be waived, except
31 by an instrument in writing designated as an amendment of or waiver under this
32 Agreement and signed by both parties. The waiver of any particular breach or default
33 hereunder shall not constitute a waiver of any other breach or default. Failure or
34 delay by any party to enforce any provision of this Agreement shall not in any way be
35 construed as a waiver of such provision, nor shall it prevent such party from
36 thereafter enforcing each and every provision of this Agreement.
37

38 8.3 Entire Agreement: This Agreement constitutes the entire agreement between the
39 parties hereto as to the matters set forth herein, and all prior proposals, commitments,
40 understandings and agreements, whether oral or in writing, as to such matters are
41 superseded by this Agreement.
42

43 8.4 Assignment: The rights of the Project Owner under this Agreement may be assumed
44 by any entity that acquires an ownership interest in the Project. Upon such
45 assumption, such entity shall be deemed to be a party to this Agreement. The Trust
46 may not assign this Agreement without the prior consent of the Project Owner and

1 Council; provided that, if the proposed assignee is a “qualified organization” as
2 defined in OAR 345-001-0010(45), the Project Owner shall not unreasonably
3 withhold such consent.
4

5 8.5 Third-Party Beneficiaries: Nothing in this Agreement, whether express or implied, is
6 intended to confer any rights or remedies on any persons other than the parties hereto
7 and their respective authorized successors and permitted assigns.
8

9 IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be
10 executed by their respective duly authorized representatives, as of the day and year first above
11 written.
12

13 PORTLAND GENERAL ELECTRIC COMPANY

THE CLIMATE TRUST

14
15
16
17 By: _____

By: _____

18
19 Name: _____

Name: _____

20
21 Title: _____

Title: _____

22
23 Date: _____

Date: _____

24
25
26 APPENDIX A: CALCULATION OF INITIAL BASE-LOAD AND POWER AUGMENTATION MONETARY
27 PATH PAYMENT REQUIREMENT [NOT INCLUDED IN SITE CERTIFICATE]
28

29 APPENDIX B: FORM OF LETTER OF CREDIT

30 /

31 /

32 /

1 **APPENDIX B TO MEMORANDUM OF UNDERSTANDING**
2 **[FORM OF CLIMATE TRUST LETTER OF CREDIT]**
3

4 *[If a bond is used, the form of the bond shall be substantially in the form of the letter of credit.]*
5

6 [Date]
7

8 **BENEFICIARY:**

9 The Climate Trust
10 516 SE Morrison Street, Suite 300
11 Portland, OR 97214
12 Attn: Mike Burnett, Executive Director
13

14 **IRREVOCABLE LETTER OF CREDIT NO. _____**
15

16 At the request and for the account of _____, we hereby issue in your favor our
17 Irrevocable Letter of Credit No. _____ (this "Letter of Credit") for U.S. \$ _____ (the "Stated
18 Amount").
19

20 We are informed that this Letter of Credit is issued to you pursuant to the Site Certificate
21 for the Port Westward Generating Project, dated November 8, 2002.
22

23 Subject to the provisions herein, funds under this Letter of Credit are available against
24 presentation of this Letter of Credit and your draft drawn at sight and marked "Drawn on
25 _____ Letter of Credit No. _____," accompanied by a written certificate in the form of
26 Annex A hereto with the blanks duly completed and purportedly signed by your Executive
27 Director and dated as of even date with the draft.
28

29 Subject to the provisions herein, we hereby authorize you to draw hereunder in an
30 amount not to exceed the Stated Amount from the date hereof through our close of business on
31 the date on which the Stated Amount is reduced to zero by a drawing hereunder.
32

33 Partial drawings are permitted under this Letter of Credit. The amount available to be
34 drawn under this Letter of Credit shall be automatically reduced by the amount of any drawings
35 hereunder. Upon the payment of drawings that in the aggregate equal the Stated Amount, we
36 shall be fully discharged of our obligation under this Letter at Credit and we shall not thereafter
37 be obligated to make any further payments under this Letter of Credit.
38

39 Presentation of this Letter of Credit, such draft and such certificate shall be made at
40 _____, by physical delivery of such documents to such office. _____ will accept physical
41 delivery of such documents either by hand delivery, by mail, by overnight courier, or by any
42 other commercially-accepted means of delivery. Our only obligation with regard to a drawing
43 under this Letter of Credit shall be to examine such draft and certificate and to pay in accordance
44 therewith if the same conforms to the terms and conditions of this Letter of Credit, and we shall
45 not be obligated to make any inquiry in connection with the presentation of this Letter of Credit,
46 the draft and the certificate.
47

1 If any request for payment hereunder is presented in compliance with the terms of this
2 Letter of Credit to us at such address by ____ (local time) on any Business Day, payment will be
3 made at or before _____ (local time) on _____, and if such request is so presented to us _____
4 (local time) on any Business Day, payment will be made at or before _____.
5

6 If a demand for payment made hereunder does not, in any instance, conform to the terms
7 and conditions of this Letter of Credit, we shall give you prompt notice that your demand for
8 payment was not effected in accordance with the terms and conditions of this Letter of Credit,
9 stating the reasons therefore and that we will, upon your instructions, hold any documents at
10 your disposal or return the same to you. Upon being notified that the demand for payment was
11 not effected in conformity with this Letter of Credit, you may attempt to correct any such
12 nonconforming demand to the extent you are able to do so; *provided, however*, that any draft or
13 document presented to correct such nonconforming demand must be presented on or before the
14 Termination Date.
15

16 Communications with respect to this Letter of Credit shall be in writing and shall be
17 addressed to us at _____, specifically referring therein to this Letter of Credit by number.
18

19 As used herein, a “Business Day” shall mean any day other than Saturday or Sunday or a
20 day on which banking institutions in the City of _____ are authorized or required by law to
21 close.
22

23 Presentation of any certificate hereunder shall be deemed to be authentic if signed by a
24 person purporting to be your Executive Director.
25

26 This Letter of Credit and the attached Annex A set forth in full our undertaking, and such
27 undertaking shall not in any way be modified, amended, amplified, or limited by reference to any
28 document, instrument or agreement referred to in this Letter of Credit, except only the
29 certificates referred to herein, and any such reference shall not be deemed to incorporate herein
30 by reference any document, instrument or agreement except for such certificates.
31

32 _____ hereby engages solely with The Climate Trust that drafts drawn hereunder
33 and in compliance with the terms of this Letter of Credit will be duly honored upon presentation
34 to us by our prompt payment to you of the amount specified in the certificate accompanying such
35 draft.
36

37 This Letter of Credit and the attached Annex A shall be subject to the provisions (to the
38 extent that such provisions are not inconsistent with this Letter of Credit) of the Uniform
39 Customs and Practices for Documentary Credits, 1993 Revision, International Chamber of
40 Commerce Publication No. 500. To the extent that the provisions of this Letter of Credit are not
41 covered by such Uniform Customs and Practices, this Letter of Credit shall be governed by and
42 enforced and construed in accordance with the laws of the State of Oregon.
43
44

[LETTERHEAD OF THE CLIMATE TRUST]

DRAW CERTIFICATE

IRREVOCABLE LETTER OF CREDIT NO.

The undersigned, the Executive Director of The Climate Trust (the "Beneficiary") hereby certifies to _____ (the "Issuing Bank") with reference to the Irrevocable Letter of Credit No. _____ (the "Letter of Credit") issued by the Issuing Bank in favor of the Beneficiary (any capitalized term used herein and not otherwise defined shall have the respective meaning set forth in the Letter of Credit) that:

- 1. The Beneficiary is making a drawing under the Letter of Credit pursuant to the Memorandum of Understanding dated _____, 200__, between The Climate Trust and Portland General Electric Company (the "MOU") in the amount of \$_____ (the "Drawing Amount");
2. The Drawing Amount hereunder does not exceed the Stated Amount reduced by all previous drawings under the Letter of Credit; and
3. The Drawing Amount is not more than the amount that the Climate Trust is entitled to draw at this time under the terms of the MOU.

The Beneficiary hereby irrevocably authorizes and directs the Issuing Bank to pay the Drawing Amount in immediately available funds to The Climate Trust, Attention: Executive Director, by sending such payment by wire transfer to:

IN WITNESS WHEREOF, the Beneficiary has executed and delivered this certificate as of the ____ day of _____, ____.

THE CLIMATE TRUST, as Beneficiary

By: _____
Name:
Executive Director

ATTACHMENT B.1, SITE CERTIFICATE, PWGP

Expiration Date: 31-Mar-2012
Permit Number: DRAFT
File Number: 111764
Page 1 of 8 Pages

WATER POLLUTION CONTROL FACILITIES PERMIT

Department of Environmental Quality
Northwest Region
2020 SW Fourth Avenue, Suite 400, Portland, OR 97201
Telephone: (503) 229-5263

Issued pursuant to ORS 468B.050

ISSUED TO:

Portland General Electric
121 SW Salmon Street
Portland, Oregon 97204

SOURCES COVERED BY THIS PERMIT:

<u>Type of Waste</u>	<u>System</u>	<u>Method of Treatment/Disposal</u>
Domestic Sewage	001	Bottomless sand filter

SYSTEM TYPE AND LOCATION:

On-Site Sewage Treatment and Disposal

Port Westward Generating Plant
80997 Kallunki Road
City/Town: Clatskanie

Located in: Sect. 15&22, T8N,R4W
Latitude: 46.1800
Longitude: -123.1717

RIVER BASIN INFORMATION:

Hydro Code: 10--COLU 51.3 N

COUNTY:

Columbia

Issued in response to Application No. 986243.

This permit is issued based on the Final Order in the Matter of the Application for a Site Certificate for the Port Westward Generating Project in lieu of a Land Use Compatibility Statement.

Robert P. Baumgartner, Water Quality Manager
Northwest Region

Date

PERMITTED ACTIVITIES

Until this permit expires or is modified or revoked, the permittee is authorized to construct, install, modify, or operate a wastewater collection, treatment, control and disposal system in conformance with all the requirements, limitations, and conditions set forth in the attached schedules as follows:

	<u>Page</u>
Schedule A - Waste Disposal Limitations	2
Schedule B - Minimum Monitoring and Reporting Requirements	3
Schedule C - (Not Applicable).....	-
Schedule D - Special Conditions	4
Schedule E - Not Applicable	-
Schedule F - General Conditions	5-8

Discharge of untreated or partially treated sewage or septic tank effluent directly or indirectly onto the ground surface or into surface waters constitutes a public health hazard and is prohibited. This permit does not relieve the permittee from responsibility for compliance with any other applicable federal, state, or local law, rule or standard.

SCHEDULE A**Waste Disposal Limitations**

1. The permittee is authorized to operate and maintain a domestic sewage treatment and disposal facility consisting of a bottomless sand filter unit with final disposal to the soil beneath the filter and in compliance with the following conditions:

- a) The average daily sewage flow to the SAND FILTER should be approximately fifty percent (50%) of the maximum daily or peak flow to the treatment system. The maximum peak daily flow shall not exceed the following unless otherwise approved by the Department:

System	Maximum Daily Flow
1	1200 gpd

- b) The **influent** to the treatment unit shall not exceed the following maximum concentrations:

Parameter	Limitation
BOD5	300 mg/l
Greases and Oil	25 mg/l
TSS	150 mg/l
TKN	150 mg/l

- c) The **effluent** from the treatment unit shall not exceed the following maximum concentrations:

Parameter	Limitation
BOD5	20 mg/l
TSS	20 mg/l

- d) No discharge to surface waters is permitted. All wastewater shall be distributed into the soil beneath the filter so as to prevent:

- 1) Surfacing of wastewater on the ground surface, surface runoff or subsurface drainage through drainage tile.
- 2) The creation of odors, fly and mosquito breeding and other nuisance conditions.
- 3) The overloading of land with nutrients or organics.
- 4) Impairment of existing or potential beneficial uses of groundwater.

2. No cooling water, air conditioner water, water softener brine, groundwater, oil, hazardous materials, roof drainage, storm water runoff, or other aqueous or non-aqueous substances which are, in the judgment of the Department, detrimental to the performance of the system or to groundwater, shall be discharged into the sewage treatment system, unless specifically approved in writing by the Department.

3. No Activities shall be conducted that could cause an adverse impact on existing or potential beneficial uses of groundwater.

SCHEDULE B**Minimum Monitoring and Reporting Requirements**1. **System Monitoring Requirements**

The permittee shall monitor the operation and efficiency of all treatment and disposal facilities. Sampling and measurements taken as required herein shall be representative of the nature of the wastewater, and shall be taken at peak usage during operation of the system. Unless otherwise agreed to in writing by the Department of Environmental Quality, data collected, and submitted shall include but not necessarily be limited to the following parameters and minimum frequencies:

a. **Influent to the Treatment Unit**

Item or Parameter	Minimum Frequency	Type of Sample
Sewage Flow, GPD	Monthly Average	Measurement or calculation based on meter readings
Flow Meter Calibration	Annually	Verification

b. **Effluent from the Sand filter;**

Item or Parameter	Minimum Frequency	Type of Sample
BOD ₅	Semi-annually *	Grab
TSS	Semi-annually *	Grab
NH ₃ -N	Annually *	Grab
NO ₃ + NO ₂ -N	Annually *	Grab
TKN	Annually *	Grab

*Upon receipt of a five year contract in place with a maintenance entity acceptable to the Department, the Department will reduce sampling frequency during the first five years of the permit to one time, to be done during the fifth year of the permit. The Department may allow some reduction of the sampling following the fifth year of the permit if the second five year contract is in place after the end of the first five year contract.

c. **Operations and Maintenance Activities**

The permittee shall record in writing all observations of operation and maintenance activities as required in the Department approved Operation and Maintenance Plan on a monthly basis.

d. **Solids Management**

The permittee shall maintain a record of the pumping dates and quantity in gallons, of solids/wastewater pumped, and what licensed sewage disposal service company pumped the solids/wastewater, as well as the final disposal location and transfer locale (if applicable).

2. **Reporting Procedures**

Monitoring, maintenance practices, solids handling, and results shall be reported on Department approved forms. The reporting period is the calendar year. Reports must be submitted to the DEQ office listed on the face page of this permit by **January 15 following the reporting period.**

SCHEDULE D**Special Conditions**

1. The permittee shall maintain on file a complete Operation and Maintenance (O&M) Plan approved by the Department. The permittee shall operate, manage and implement preventative maintenance practices or corrections at the frequencies required in the Department approved O&M Plan. Any changes to the plan must be approved by the Department.
2. In the event that a concentration limit, as specified in Schedule A, to the soil beneath the filter is exceeded, the permittee shall within fourteen (14) working days of receipt of the analytical results:
 - a) Report the results to the Department;
 - b) Resample to verify the results; and
 - c) In the event that the resampling confirms a concentration limit violation, within thirty (30) days of confirmation, the permittee shall submit to the Department a corrective action plan to reduce the waste strength so that the concentration limits are not violated. Upon Department approval, the plan shall be implemented by the permittee.
3. The permittee shall contract with a licensed sewage disposal service as defined in Oregon Administrative Rule 340-71-100 for management of all septage/sludge.
4. All bench sheets, laboratory analysis sheets, and other records to support the data reported on the Discharge Monitoring Report (DMR) shall be prepared in ink and shall be kept on file for a period of at least 3 years from the date of the sample, measurement, report or application. Pencil entries or liquid paper corrections are prohibited and shall be considered Class I violations of the permit. Changes to any supporting records that may be required to correct the original data may be made by lining through the original data. The date of the change and the initials of the individual making the change shall be recorded in ink adjacent to the change.
5. The sand filter area including replacement area shall not be subject to activities that would, in the opinion of the Department, adversely affect the soil or the functioning of the system. This includes, but is not limited to, vehicular or animal traffic, filling or cutting, covering the area with asphalt or concrete, or subjecting the area to excessive saturation.
6. The permittee shall not be required to perform a formal hydrogeologic characterization or preliminary groundwater monitoring during the term of this permit provided that the facilities are operated in accordance with the permit conditions, and there are no apparent adverse groundwater quality impacts (complaints or other indirect evidence) resulting from the facility's operation. If warranted, the Department may evaluate the need for or require a full assessment of the facility's impact on groundwater quality and if necessary may reopen this permit to include groundwater monitoring parameters.
7. An adequate contingency plan for prevention and handling of spills and unplanned discharges shall be in force at all times. The permittee shall immediately notify the DEQ office listed on the face page of this permit and the local County Health Department of any occurrence of surfacing sewage. If a spill does occur that reaches or threatens to reach public waters, the permittee shall immediately notify Oregon Emergency Response (OER) at 1-800-452-0311.

SCHEDULE F

General Conditions

SECTION A. - STANDARD CONDITIONS

1. Property Rights

The issuance of this permit does not convey any property rights in either real or personal property, or any exclusive privileges, nor does it authorize any injury to private property or any invasion of personal rights, nor any infringement of Federal, State, or local laws, or regulations.

2. Liability

The Department of Environmental Quality, its officers, agents, or employees shall not sustain any liability on account of the issuance of this permit or on account of the construction or maintenance of facilities because of this permit.

3. Permit Actions

After notice by the Department, this permit may be modified, suspended, or revoked in whole or in part during its term for cause including but not limited to the following:

- a. Violation of any term or condition of this permit, any applicable rule or statute, or any order of the Commission;
- b. Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts.

4. Transfer of Permit

This permit shall not be transferred to a third party without prior written approval from the Department. Such approval may be granted by the Department where the transferee acquires a property interest in the permitted activity and agrees in writing to fully comply with all the terms and conditions of this permit and the rules of the Commission. A transfer application and filing fee must be submitted to the Department.

5. Permit Fees

The permittee shall pay the fees required to be filed with this permit application and to be paid annually for permit compliance determination as outlined in the Oregon Administrative Rules.

SECTION B. - OPERATION AND MAINTENANCE OF POLLUTION CONTROLS

1. Proper Operation and Maintenance

The permittee shall at all times maintain in good working order and properly operate as efficiently as possible all treatment or control facilities or systems installed or used by the permittee to achieve compliance with the terms and conditions of this permit.

2. Standard Operation and Maintenance

All waste collection, control, treatment, and disposal facilities shall be operated in a manner consistent with the following:

- a. At all times, all facilities shall be operated as efficiently as possible and in a manner which will prevent discharges, health hazards, and nuisance conditions.
- b. All screenings, grit, and sludge shall be disposed of in a manner approved by the Department such as to prevent any pollutant from such materials from reaching any waters of the state, creating a public health hazard, or causing a nuisance condition.
- c. Bypassing of untreated waste is generally prohibited. No bypassing shall occur without prior written permission from the Department except where unavoidable to prevent loss of life, personal injury, or severe property damage.

3. Noncompliance and Notification Procedures

In the event the permittee is unable to comply with all the conditions of this permit because of surfacing sewage, a breakdown of equipment or facilities, an accident caused by human error or negligence, or any other cause such as an act of nature, the permittee shall:

- a. Immediately take action to stop, contain, and clean up the unauthorized discharges and correct the problem.
- b. Immediately notify the Department's Regional office, so that an investigation can be made to evaluate the impact and the corrective actions taken and determine additional action that must be taken.
- c. Within 5 days of the time the permittee becomes aware of the circumstances, the permittee shall submit to the Department a detailed written report describing the breakdown, the actual quantity and quality of resulting waste discharges, corrective action taken, steps taken to prevent a recurrence, and any other pertinent information.

Compliance with these requirements does not relieve the permittee from responsibility to maintain continuous compliance with the conditions of this permit or the resulting liability for failure to comply.

4. Wastewater System Personnel

The permittee shall provide an adequate operating staff which is duly qualified to carry out the operation, maintenance, and monitoring requirements to assure continuous compliance with the conditions of this permit.

SECTION C. - MONITORING AND RECORDS

1. Inspection and Entry

The permittee shall, at all reasonable times, allow authorized representatives of the Department of Environmental Quality to:

- a. Enter upon the permittee's premises where a waste source or disposal system is located or where any records are required to be kept under the terms and conditions of this permit;
- b. Have access to and copy any records required to be kept under the terms and conditions of this permit;
- c. Inspect any treatment or disposal system, practices, operations, monitoring equipment, or monitoring method regulated or required by this permit; or

d. Sample or monitor at reasonable times, for the purpose of assuring permit compliance or as otherwise authorized by state law, any substances or parameters at any location.

2. Averaging of Measurements

Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean.

3. Retention of Records

The permittee shall retain records of all monitoring and maintenance information, including all calibrations, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least 3 years from the date of the sample, measurement, report or application. The Director may extend this period at any time.

SECTION D. - REPORTING REQUIREMENTS

1. Plan Submittal

Pursuant to Oregon Revised Statute 468B.055, unless specifically exempted by rule, no construction, installation or modification of disposal systems, treatment works, or sewerage systems shall be commenced until plans and specifications are submitted to and approved in writing by the Department. All construction, installation or modification shall be in strict conformance with the Department's written approval of the plans.

2. Change in Discharge

Whenever a facility expansion, production increase, or process modification is anticipated which will result in a change in the character of pollutants to be discharged or which will result in a new or increased discharge that will exceed the conditions of this permit, a new application must be submitted together with the necessary reports, plans, and specifications for the proposed changes. No change shall be made until plans have been approved and a new permit or permit modification has been issued.

3. Signatory Requirements

All applications, reports or information submitted to the Department shall be signed and certified by the official applicant of record (owner) or authorized designee.

SECTION E. DEFINITIONS

1. BOD₅ means five-day biochemical oxygen demand.
2. TSS means total suspended solids.
3. FC means fecal coliform bacteria.
4. NH₃-N means Ammonia Nitrogen.
5. NO₃-N means Nitrate Nitrogen.
6. NO₂-N means Nitrite Nitrogen.
7. TKN means Total Kjeldahl Nitrogen.
8. Cl means Chloride.
9. TN means Total Nitrogen.
10. mg/L means milligrams per liter.
11. µg/L means micrograms per liter.
12. kg means kilograms.
13. GPD means gallons per day.
14. MGD means million gallons per day.
15. The term "bacteria" includes but is not limited to fecal coliform bacteria, total coliform bacteria, and E. coli bacteria.
16. Total residual chlorine means combined chlorine forms plus free residual chlorine.
17. Grab sample means an individual discrete sample collected over a period of time not to exceed 15 minutes.
18. Composite sample means a combination of samples collected, generally at equal intervals over a 24-hour period, and apportioned according to the volume of flow at the time of sampling.
19. Week means a calendar week of Sunday through Saturday.
20. Month means a calendar month.
21. Quarter means January through March, April through June, July through September, or October through December.

ATTACHMENT B.2, SITE CERTIFICATE , PWGP



**OREGON DEPARTMENT OF ENVIRONMENTAL QUALITY
LARGE ONSITE WPCF PERMIT EVALUATION
May 1, 2002**

Permittee:	Portland General Electric	Manager Approval Initials:	
	121 SW Salmon Street Portland, Oregon 97204 File Number: 111764		
Source Contact:	Arya Behbehani-Divers	Telephone Number: (503) 464-8141	
Source Location:	80997 Kallunki Road, Clatskanie		
County:	Columbia		
Permit Writer:	Anne Cox	NWR Office	
Proposed Action:	New WPCF-OS	Application No.: 986243	Date Received: 3/29/02

Introduction

Under Oregon Administrative Rule Chapter 340 Division 71 Section 130 (15) [OAR 340-71-130(15)], any person proposing a sand filter system to serve a commercial facility shall obtain a WPCF permit from the Department of Environmental Quality.

This area was originally evaluated for on-site sewage disposal by Columbia County onsite staff. On February 8, 2002, the Department confirmed the evaluation of this site in relation to the proposed PGE facility.

Facility Description

Total Design Flow of Facility	1,200 Gallons per day
Number of Systems	One

System #1

Date Constructed	To be constructed in 2002 or later
Design Capacity	1,200 gpd
Facilities Served	Sanitary facilities for the Port Westward Generating plant, bathrooms & sinks.
Type of Treatment	Bottomless Sand filter
Type of Soils	Sand

Comments: Latitude and Longitude for the test pit area is 46 10 41, -123 10 16.

Groundwater

As part of this permit evaluation, a groundwater prioritization screening was done. The results of this screening is as follows:

For new and existing drainfield systems (confirm all statements given as true or false:	
1. Based on the depth to the water table <u>underline the applicable statement</u> and confirm it as either true or false: A. <u>Depth to water table is less than 100 feet</u> : System design flow is less than 5,000 gpd. B. Depth to water table is between 100 and 300 feet; system design flow is less than 10,000 gpd. C. Depth to water table is greater than 300 feet; system design flow is less than 15,000 gpd.	True
2. System is not located in Groundwater Management Area where an identified contaminant of concern may be associated with domestic wastewater.	True
3. Drainfield is not located within: 1000 feet of an existing public or private drinking water supply well or a designated Wellhead Protection Area, And, all land within 1000 feet of the system is zoned such that no drinking water wells are likely to be installed in the future.	False
4. No industrial sources discharge to the system	True
5. There are no exceptional situations under which the system may require further groundwater review to determine the likelihood of an adverse impact.	True

If all answers are true, then no further information is needed.

If any answers are false, has additional information been gathered to satisfy the permit writer and groundwater reviewer that the facility actually has a low potential to adversely impact groundwater? **Yes** If yes, provide details.

All domestic wells are over the 100 foot setback required by OAR 340-71. In fact there are no wells within ½ mile of the project. The initial groundwater in this area is essentially the Columbia River and can be expected to discharge to the river.

The projected sewage flow from this facility is 1,200 gpd, equivalent to 2.6 residential homes located on a parcel of 19 acres. Sand filter effluent is expected to produce 10 mg/l BOD, 10 mg/l TSS, reduce bacteria counts by 98 to 99% and lowers total nitrogen by approximately 50%. The site meets Division 71 Onsite rules criteria for approval of a bottomless sand filter. The proposed flows will be low. The potential to impact the groundwater is negligible.

Compliance History

This is a new permit. There is no compliance history.

PERMIT DISCUSSION

Schedule A – Waste Disposal Limitations

Schedule A contains the following limitations for each system:

- x System Maximum Daily flow
- x Influent maximum concentrations (Sand Filters and RGFs only)
- x Effluent maximum concentrations
- x Prohibition of discharges to surface waters
- x Prohibition of discharge of detrimental substances to system
- x Groundwater restrictions.

Schedule B – Minimum Monitoring and Reporting Requirements

Monitoring parameters and frequencies are based on the Department monitoring matrix. Any modifications are listed as follows:

If the permittee enters into a five year maintenance contract with an acceptable entity, the Department will reduce sampling requirements to one time during that period, at the fifth year of the permit. Further reduction in sampling can be allowed after the fifth year of the permit if the permittee enters into another five year contract.

Schedule D – Special Conditions

Schedule D contains the following special conditions:

- x Operations and Maintenance Requirements
- x Septage/sludge management
- x Maintenance of vegetation in the drainfield area
- x Prohibition of activities that would adversely affect the soil or functioning of the system.
- x Contingency plan requirement
- x Groundwater Requirements

Schedule F – General Conditions

This Schedule contains general conditions that are applicable to all WPCF permits in Oregon.

Division of State Lands
775 Summer Street NE, Suite 100
Salem, OR 97301-1279
(503-378-3805

Permit No.:	25248-FP
Permit Type:	Fill
Waterway:	Columbia River/Wetlands
County:	Columbia
Expiration Date:	
Corps No.:	

PORTLAND GENERAL ELECTRIC

IS AUTHORIZED IN ACCORDANCE WITH ORS 196.800 TO 196.990 TO PERFORM THE OPERATIONS DESCRIBED IN THE REMOVAL/FILL APPLICATION SUBMITTED AS PART OF THE APPLICATION FOR A SITE CERTIFICATE FOR THE PORT WESTWARD GENERATING PROJECT, FILED APRIL 11, 2002, SUBJECT TO THE SPECIAL CONDITIONS LISTED ON ATTACHMENT A AND TO THE FOLLOWING GENERAL CONDITIONS:

1. This permit does not authorize trespass on the lands of others. The permit holder shall obtain all necessary access permits or rights-of-way before entering lands owned by another.
2. This permit does not authorize any work that is not in compliance with local zoning or other local, state, or federal regulation pertaining to the operations authorized by this permit. The permit holder is responsible for obtaining the necessary approvals and permits before proceeding under this permit.
3. All work done under this permit must comply with Oregon Administrative Rules, Chapter 340; Standards of Quality for Public Waters of Oregon. Specific water quality provisions for this project are set forth on Attachment A.
4. Violations of the terms and conditions of this permit are subject to administrative and/or legal action which may result in revocation of the permit or damages. The permit holder is responsible for the activities of all contractors or other operators involved in work done at the site or under this permit.
5. A copy of the permit shall be available at the work site whenever operations authorized by the permit are being conducted.
6. Employees of the Division of State Lands and all duly authorized representatives of the Director shall be permitted access to the project area at all reasonable times for the purpose of inspecting work performed under this permit.
7. The Division of State Lands issues this permit pursuant to the Site Certificate for the Port Westward Generating Project, issued by the Oregon Energy Facility Siting Council, November 8, 2002.
8. In issuing this permit, the Division of State Lands makes no representation regarding the quality or adequacy of the permitted project design, materials, construction, or maintenance, except to approve the project's design and materials, as set forth in the permit application, as satisfying the resource protection, scenic, safety, recreation, and public access requirements of ORS Chapters 196, 390 and related administrative rules.
9. Permittee shall defend and hold harmless the State of Oregon, and its officers, agents, and employees from any claim, suit, or action for property damage or personal injury or death arising out of the design, material, construction, or maintenance of the permitted improvements.

NOTICE: If removal is from state-owned submerged and submersible land, the applicant must comply with leasing and royalty provisions of ORS 274.530. If the project involves creation of new lands by filling on state-owned submerged or submersible lands, you must comply with ORS 274.905 - 274.940. This permit does not relieve the permittee of an obligation to secure appropriate leases from the Division of State Lands, to conduct activities on state-owned submerged or submersible lands. Failure to comply with these requirements may result in civil or criminal liability. For more information about these requirements, please contact the Division of State Lands, 503-378-3805.

Lori Warner, Manager
Western Region Field Operations
Oregon Division of State Lands

Authorized Signature

Date Issued

ATTACHMENT A to Removal/Fill Permit

Special Conditions for Removal/Fill Permit No. 25248-FP. PLEASE READ AND BECOME FAMILIAR WITH CONDITIONS OF YOUR PERMIT. This project may be site inspected by the Division of State Lands as part of our monitoring program. The Division has the right to stop or modify the project at any time if you are not in compliance with these conditions. A copy of this permit shall be available at the work site whenever authorized operations are being conducted.

1. This permit authorizes the placement of up to 3,000 cubic yards of gravel sand and silt and removal of up to 4,500 cubic yards of silt and clay in T8N, R4W, Sections 15 and 22, Tax Lots 3 and 4 in wetlands and Columbia River, Columbia County for power generation facility, transmission line, and water intake station upgrades, as outlined in the attached permit application, map and drawings, dated April 11, 2002 (Application). Removal-fill activity for wastewater discharge line and river outfall is specifically not authorized by this permit.
2. This permit authorizes removal and fill activities necessary to complete the required compensatory mitigation.
3. **TURBIDITY/EROSION CONTROLS.** The authorized work shall not cause turbidity of affected waters to exceed 10% over natural background turbidity 100 feet downstream of the fill point. For projects proposed in areas with no discernible gradient break (gradient of 2% or less), monitoring shall take place at 4 hour intervals and the turbidity standard may be exceeded for a maximum of one monitoring interval per 24 hour work period provided all practicable control measures have been implemented. This turbidity standard exceedance interval applies only to coastal lowlands and floodplains, valley bottoms and other low-lying and/or relatively flat land.

For projects in all other areas, the turbidity standard can be exceeded for a maximum of 2 hours (limited duration) provided all practicable erosion control measures have been implemented. These projects may also be subject to additional reporting requirements.

Turbidity shall be monitored during active in-water work periods. Monitoring points shall be at an undisturbed site (representative background) 100 feet upstream from the turbidity causing activity (i.e., fill or discharge point), 100 feet downstream from the fill point, and at the point of fill. A turbidimeter is recommended, however, visual gauging is acceptable. Turbidity that is visible over background is considered an exceedance of the standard.

Practicable erosion control measures which shall be implemented, as appropriate, include but are not limited to the following:

- a. Place fill in the water using methods that avoid disturbance to the maximum practicable extent (e.g. placing fill with a machine rather than end-dumping from a truck).
 - b. Prevent all construction materials and debris from entering waterway;
 - c. Use filter bags, sediment fences, sediment traps or catch basins, silt curtains, leave strips or berms, Jersey barriers, sand bags, or other measures sufficient to prevent movement of soil;
 - d. Use impervious materials to cover stockpiles when unattended or during rain event;
 - e. Erosion control measures shall be inspected and maintained daily to ensure their continued effectiveness;
 - f. No heavy machinery in a wetland or other waterway;
 - g. Use a gravel staging area and construction access;
 - h. Fence off planted areas to protect from disturbance and/or erosion; and
 - i. Flag or fence off wetlands adjacent to the construction area.
4. Erosion control measures shall be maintained as necessary to ensure their continued effectiveness, until soils become stabilized. All erosion control structures shall be removed when project is complete and soils are stabilized and vegetated.
 5. Fill and removal activities in the Columbia River shall be conducted between November 1 and February 28, unless otherwise coordinated with ODFW and approved in writing by ODSL.
 6. Petroleum products, chemicals, or other deleterious materials shall not be allowed to enter waters of the state.
 7. No fresh concrete shall be allowed to come into contact with waters of the state unless otherwise coordinated with ODFW and approved in writing by ODSL.
 8. Waste materials and spoils shall be placed in a stable upland location above the top of bank and shall be suitably stabilized to prevent erosion.
 9. If any archaeological resources and/or artifacts are uncovered during excavation, all construction activity shall immediately cease. The State Historic Preservation Office shall be contacted (phone: 503-378-4168).
 10. The Division of State Lands retains the authority to temporarily halt or modify the project within the scope of the site certificate issued by the Energy Facility Siting Council in case of unforeseen damage to natural resources.

11. The permittee is responsible for carrying-out the terms and conditions of this permit unless the permit is transferred to another party using forms provided by the Division.

Compensatory Wetland Mitigation

The following conditions apply to the actions described in the Application, Appendix J-3, Wetland Mitigation Plan, dated May 2002 (Mitigation Plan). The issuance of this permit is contingent upon the successful compensatory wetland mitigation for the loss of 0.41 acres of wetlands resulting from power generating facility development and up to 0.02 acres of wetlands resulting from construction of transmission towers for a total of 0.43 acres impact.

12. On-site compensatory mitigation for the loss of 0.43 acres of palustrine emergent, seasonally saturated (PEMc) and scrub-shrub (PSSc), riverine flow-through (RFT)/depressional wetland, shall consist of 1.5 acres of enhancement to PEMc, PSSc, palustrine forested (PFO), RFT/depressional wetland.
13. Mitigation for temporary impacts (0.03 acres) resulting from water supply line installation shall consist of rehabilitation to original ground contours and re-vegetation with appropriate wetland seed mix upon re-establishment of original contours. Similar rehabilitation shall also be provided for any temporary wetland impacts associated with transmission towers installation (e.g., equipment ruts, tracks). During trenching or excavation, the top layer of soil shall be separated from the rest of the excavated material and put back on top when the trench or pit is back-filled. If the native underlying soils are not used as bedding material, and a coarser, non-native soil or other material is used, preventative measures such as clay or concrete plugs shall be used so that underground hydraulic piping does not occur and de-water the site and adjacent wetlands. Failure to comply with this condition may result in additional compensatory mitigation.
14. Mitigation shall be completed prior to or concurrent with the wetland fill project and otherwise consistent with Mitigation Plan, Section 10, Vegetation Management.
15. The wetland enhancement area shall be graded to the elevations described in Mitigation Plan, Section 10 and Figures J-3.5 and J-3.6.
16. Prior to any site grading, the surveyed boundaries of the wetland mitigation area and the avoided wetlands shall be surrounded by silt fencing at all times during construction of the project. There shall be no heavy equipment in this area except during mitigation construction.

17. An as-built survey shall be provided to the Division of State Lands within 60 days of mitigation site grading.
18. The mitigation site shall be planted in types, numbers and zones described in Mitigation Plan, Plant Schedule (Figure J-3.5). No existing trees shall be removed within the wetland mitigation area. Any significant variation in the plant schedule shall be referred to the Division for approval prior to execution. In the event that Cottonwood does not volunteer in the mitigation area in numbers/density consistent with the reference site by the end of the 3rd year, the planting plan shall be supplemented with cottonwood plantings. Proposed numbers shall be provided to the Division for approval prior to execution.
19. Removal or control of invasive, non-native plant species shall be done by means including preliminary site grading, mowing, herbicide application and/or by-hand removal, as appropriate. Livestock grazing shall not be allowed in the mitigation area.
20. The mitigation site shall be irrigated as necessary to avoid water stress for two years after the completion of planting.
21. Large woody debris shall be placed at the mitigation site locations identified in the Mitigation Plan, Figure J-3.6.

Success Criteria

To be deemed successful, the mitigation areas shall meet the following success criteria:

22. Cover of planted herbaceous material and desirable native wetland recruits (FAC+ or wetter) in designated PEMc areas shall be at least 80% after the 3rd year (as measured by cover in representative plots) and remain at least 80% for the remainder of the monitoring period.
23. Survival of planted trees and shrubs (by species) shall be at least 80% for the duration of the monitoring period (as measured by total stem counts). Should cottonwood not volunteer into the mitigation area in numbers consistent with the reference site by year 3, remedial action shall be taken in consultation with the Division.
24. There shall be no more than 30 percent cover of non-native species at any time during the monitoring period.

25. Mitigation site micro-topography shall meet grading design per Mitigation Plan, Figures J-3.5 and J-3.6 and including large woody debris placement pursuant to Mitigation Plan, Figure J-3.6.
26. The mitigation site shall exhibit characteristics of PFO/PSS wetland (0.9 acres) and PEMc wetland (0.6 acres) consistent with Cowardin definitions for said wetland types by the end of the monitoring period.

Mitigation Monitoring

27. The permittee shall monitor the mitigation site to determine success for a minimum period of five (5) years. The annual monitoring report is due by December 31 of each year and shall include the following information:
 - Permit number, permittee's name, project name
 - Location of mitigation site: describe and show on current map.
 - Location of impact site
 - Description of all activities that have occurred on the mitigation site during the past year (i.e. grading, re-grading, planting, re-planting, weed eradication, etc.).
 - Documentation that success criteria are being met and statements regarding criteria listed in conditions 22 through 26, above.
 - Results of hydrologic monitoring to be conducted during early growing season including depth to saturation, extent of inundation and presence of secondary hydrologic indicators in the mitigation area.
 - Qualitative comparison/discussion of the mitigation site performance relative to the reference site.
 - Photographs from a minimum of three fixed photo-monitoring locations.
 - Recommendations for remedial or maintenance actions, as necessary
 - Other information necessary or required to document compliance with mitigation plan.

The monitoring period will start when the permittee has demonstrated that hydrology has been established and initial plantings have been accomplished. Failure to submit a monitoring report at the above date may result in an extension of the monitoring period and/or enforcement action.

Contingency

28. In the event that non-native plant cover exceeds 30% at any time during the monitoring period or less than 80% coverage/80% survival occurs in the emergent/shrub-tree area, the permittee shall submit to the Division, for

approval, a contingency plan describing specific actions and timeframes to return the site to design conditions.

29. Removal of the berm across the existing drainage channel shall only occur with the prior approval of the Division and shall be based on demonstration of successful hydrologic conditions and cover of desirable emergent species.

30. The Division retains the authority to extend the mitigation monitoring period and require corrective action in the event the success criteria are not accomplished for two consecutive years (without re-planting for failure to meet survival or cover criteria) within the 5-year monitoring period.

_____, 200_____