

**BEFORE THE
ENERGY FACILITY SITING COUNCIL
OF THE STATE OF OREGON**

IN THE MATTER OF A REQUEST FOR)
EXEMPTION FROM ENERGY FACILITY SITE)
CERTIFICATE REQUIREMENTS FOR THE)
PROPOSED ZEACHEM, INC. CELLULOSIC) ORDER GRANTING EXEMPTION
ETHANOL COMMERCIAL PRODUCTION PLANT)

1 On January 3, 2013, ZeaChem, Inc. submitted a Request for Exemption from requirements to
2 obtain an Energy Facility Site Certificate for a proposed commercial scale cellulosic ethanol
3 production facility located at the Port of Morrow in Boardman, Oregon.¹
4 The facility is proposed by ZeaChem, Inc. The proposed site is 25.22 acres of land leased from
5 the Port of Morrow Industrial Park and zoned “Port Industrial Zone.” ZeaChem completed
6 construction of a demonstration cellulosic ethanol facility at the project site in January 2012. In
7 the Request for Exemption, ZeaChem states that the demonstration facility will not produce
8 enough ethanol to be subject to Council jurisdiction.

9 **APPLICABLE REGULATIONS**

10 Oregon statute exempts certain fuel producing energy facilities from EFSC jurisdiction.
11 ZeaChem requests an exemption under ORS 469.320(2)(f), which states that no site certificate
12 shall be required for:

13 “*(f) An energy facility as defined in ORS 469.300(11)(a)(G), if the facility*
14 *(A) Exclusively uses grain, whey, potatoes, oil seeds, waste vegetable oil or cellulosic*
15 *biomass as the source of material for conversion to a liquid fuel*
16 *(B) Has received local land use approval under the applicable acknowledged comprehensive*
17 *plant and land use regulations of the affected local government and the facility complies*
18 *with any statewide planning goal or rules of the Land Conservation and Development*
19 *Commission that are directly applicable to the facility*
20 *(C) Requires no new electric transmission lines or gas or petroleum product pipelines that*
21 *would require a site certificate under subsection (1) of this section, and*

¹ ZeaChem, Inc. *Request for Exemption Request from Site Certificate Requirement*. January 3, 2013.

1 (D) *Produces a synthetic fuel, at least 90 percent of which is used in an industrial or*
2 *refueling facility located within one mile of the facility or is transported from the facility*
3 *by rail or barge.*"

4 **REVIEW OF EXEMPTION REQUEST**

5 The Council reviewed ZeaChem's request under its rules at OAR 345-015-0370.

6 On January 10, 2013, the Oregon Department of Energy (ODOE) determined that the exemption
7 request met the content and format described at OAR 345-015-0370(7). ODOE deemed the
8 exemption request complete, and issued notice of filing to ZeaChem.

9 The Council considered staff's recommended findings regarding this exemption request at a
10 meeting in Salem, Oregon on January 25, 2013.

11 Based on the information in the request for exemption and on staff recommendations in ODOE's
12 notice of filing, the Council makes the following findings regarding compliance with the
13 exemption criteria of ORS 469.320(2)(f).

14 **COMPLIANCE WITH EXEMPTION CRITERIA**

15 To grant the exemption, the Council must find that the facility:

16 (A) *Uses grain, whey, potatoes, oil seeds, waste vegetable oil or cellulosic biomass as*
17 *the source of material for conversion to a liquid fuel;*

18 The planned facility will convert cellulose from locally sourced cellulosic woody biomass (trees,
19 tree residue, slash, and pre-commercial thinning) and cellulosic agricultural residue (wheat straw
20 and/or corn stover) into ethanol. ZeaChem projects that the facility will produce 25 million
21 gallons per year of ethanol.

22 The Council finds that criterion (A) is met.

23 (B) *Has received local land use approval under the applicable acknowledged*
24 *comprehensive plant and land use regulations of the affected local government and*
25 *the facility complies with any statewide planning goal or rules of the Land*
26 *Conservation and Development Commission that are directly applicable to the*
27 *facility*

28 The Request for Exemption includes a 2011 letter from Carla McLane ("Exhibit A"), Morrow
29 County Planning Director to the EPA. The letter states that the ethanol facility is a permitted use
30 in the Port Industrial Zone, where the facility is proposed. The letter also states that ZeaChem
31 must still obtain the required zoning permit and applicable building permits, and that Site Design

1 review under Article 4, Section 4.165 of the Morrow County Zoning Ordinance will be
2 applicable.²
3 In response to the Department's request regarding the requirements of the exemption criterion,
4 Ms. McLane provided supplemental information by email. Ms. McLane states that no statewide
5 planning goals or Land Conservation and Development Commission rules apply directly to the
6 facility,³ and that as ministerial actions, neither the Zoning Permit nor the Site Plan Review
7 required under the Morrow County Zoning Ordinance are land use approvals.⁴ The Council relies
8 on the county's representations to find that the proposed facility meets the land use criterion in
9 ORS 469.320(f)(B).

10 The Council finds that criterion (B) is met.

11 *(C) Requires no new electric transmission lines or gas or petroleum product pipelines
12 that would require a site certificate under subsection (1) of this section,*

13 The facility's expected load is approximately 10.8 MW, and will be served by Umatilla Electric
14 Co-Op (UEC). The Request for Exemption notes that UEC has stated that it will be able to serve
15 the facility's electricity demand "without modification to any high voltage electrical lines in the
16 UEC transmission system."

17 Natural gas will be provided by Cascade Natural Gas via an existing 8 inch line that currently
18 serves the demonstration facility. ZeaChem estimates the facility's natural gas demand at
19 approximately 270 million Btu per hour. The facility does not require a gas pipeline that requires
20 a site certificate.

21 The Council finds that criterion (C) is met.

22 *(D) Produces a synthetic fuel, at least 90 percent of which is used in an industrial or
23 refueling facility located within one mile of the facility or is transported from the
24 facility by rail or barge.*

25 The Request for Exemption includes a photograph ("Exhibit B") showing an overhead view of
26 the Port of Morrow, indicating neighboring rail and barge facilities in relation to the project site.

27 ZeaChem certifies that it will ship at least 90% of its cellulosic ethanol output by rail or barge.
28 The Request for Exemption notes that the project site is encircled by a rail loop from the Union
29 Pacific main line and is adjacent to Tidewater Shipping's Port of Morrow liquid loading barge
30 dock on the Columbia River. The Tidewater dock currently serves Pacific Ethanol's grain
31 ethanol facility at the Port of Morrow.

32 The Council finds that criterion (D) is met.

² McLane, Carla. Letter to Juliet Bochicchio, USDA "RE: ZeaChem Biorefinery Intergovernmental Review." August 1, 2011.

³ McLane, Carla. Email to Chris Green. January 23, 2013, 10:15 AM.

⁴ McLane, Carla. Email to Chris Green. January 23, 2013, 12:01 PM.

(E) Emits less than 118 pounds of carbon dioxide per million Btu from fossil fuel used for conversion energy.

In the Request for Exemption, ZeaChem states that the proposed facility will emit less than 118 pounds of carbon dioxide per million Btu from fossil fuel used for conversion energy. ZeaChem notes that under the proposed design, the facility would use natural gas for conversion energy, and has used the rate of 117 pounds of carbon dioxide per million Btu of natural gas fuel described in OAR 345-024-0620 to determine the emissions of the proposed facility.

CONCLUSION

Although not required for the exemption, Morrow County's requirements for zoning permits, building permits and site plan review still apply and must be met prior to construction.

The Council determines that the proposed Cellulosic Ethanol Commercial Production facility, as described in the exemption request submitted by ZeaChem on January 3, 2013, is exempt from its jurisdiction pursuant to ORS 469.320(2)(f).

The exemption is predicated on the facility's continued compliance with all criteria at ORS 469.320(2)(f)(A) through (E). If ZeaChem, Inc. should wish to ship more than 10% of its ethanol product by truck, then the facility would no longer meet the exemption criteria and must first obtain an Energy Facility Site Certificate.

W. Bryan Wolfe, Chair
Energy Facility Siting Council

02/06/2013
date

Notice of Right to Appeal

26 Pursuant to ORS 469.320(4), you have the right to appeal this Order to the Oregon Supreme
27 Court as provided under ORS 469.403, except that the scope of review by the Supreme Court
28 shall be the same as a review by a circuit court under ORS 183.484. To appeal you must file a
29 petition for judicial review with the Supreme Court within 60 days from the day this order was
30 served on you. If this order was personally delivered to you, the date of service is the date you
31 received this order. If this order was mailed to you, the date of service is the date it was mailed,
32 not the day you received it. If you do not file a petition for judicial review within the 60-day
33 time period, you lose your right to appeal. The record on review by the Supreme Court will be
34 the record established in the council proceeding on this exemption.